THE

UNREPEALED AND UNEXPIRED

ACTS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

CONTAINING THE ACTS OF 1871 & 1872,

TO 1st SEPTEMBER, 1872;

WITH A FULL INDEX,

AND

TABLES OF REPEALED ACTS AND OF SHORT TITLES.

VOL. V. PART II.

BY

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1872.

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LISTS OF ACTS

PASSED IN 1871 AND 1872.

1871.

I. To consolidate and amend the law relating to Trespasses by Cattle.

II. To extend the Prisons' Act, 1870, to Coorg.

III. To consolidate and amend the law relating to the Government Paper Currency.

IV. To consolidate and amend the laws relating to Coroners.

V. To consolidate the laws relating to Prisoners confined by order of a Court.

VI. To consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.

VII. To consolidate the laws relating to the Emigration of Native Laborers.

VIII. For the Registration of Documents.

IX. For the Limitation of Suits and for other purposes.

X. To consolidate and amend the laws relating to the Excise Revenue in Northern India British Burmah, and Coorg.

XI. To abolish the Financial Commissionership of Oudh.

XII. For imposing Duties on Income.

XIII. To consolidate and amend the law relating to Customs' Duties.

XIV. For the further amendment of the consolidated Customs' Act.

XV. To relieve from incumbrances the estates of Thakurs in Broach.

XVI. For the survey of Steam Vessels plying within British Burmah.

XVII. To provide for the levy of Rates on Land in Oudh.

XVIII. For the levy of Rates on Land in the North-Western Provinces.

XIX. To provide for the appointment of Session Judges in Bengal and the North-Western Provinces.

XX. To provide for the levy of Rates on Land in the Punjab.

XXI. To give validity to the operation of the General Regulations and Acts within the 'Dehra Dún.'

XXII. To authorise the extension of the Chawkidari Act to places where there is no Jamadar of Police.

XXIII. To consolidate and amend the law relating to Pensions and Grants by Government of Money or Land Revenue.

XXIV. The Local Public Works Loan Act.

XXV. To amend the Railway Act.

XXVI. To consolidate and amend the law relating to advances of Money by the Government for Agricultural Improvements.

XXVII. For Registration of Criminal Tribes and Eunuchs.

XXVIII. To amend the European Vagrancy Act, 1869.

XXIX. For repealing certain Regulations of the Bengal Code which have ceased to be in force, or have become unnecessary.

XXX. To regulate Irrigation, Navigation, and Drainage in the Punjab.

XXXI. To regulate the Weights and Measures of Capacity of British India.

XXXII. To consider and amend the law relating to the Civil Courts in Oudh.

XXXIII. To consolidate and define the law relating to the settlement and collection of Land Revenue in the Punjab, and for other purposes.

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III.	To provide a Form of Marriage in certain cases.
IV.	For declaring which of certain rules, laws, and regulations have the force of law in the Punjab, and for other purposes.
V.	To remove doubts as to the jurisdiction of the High Court of Bombay over the province of Sind.
VI.	To amend the law relating to Oaths and Affirmations.
VII.	To consolidate and amend the law relating to the Courts in British Burmah.
VIII.	For the purpose of imposing duties on incomes arising from offices, property, professions, and trades.
IX.	The Indian Contract Act.
X.	For regulating the procedure of the Courts of Criminal Judicature.
XI.	To provide for the Trial of Offences committed in places beyond British India, and for the Extradition of Criminals.
XII.	To amend Act XII. of 1870 (the Native Passenger Ships' Act).
XIII.	To amend Act XV. of 1859.
XIV.	To exempt the Straits Settlements from the Indian Emigration Act, 1871.
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THE UNREPEALED

LEGISLATIVE ACTS

OF THE

GOVERNOR-GENERAL OF INDIA IN COUNCIL.

ACT No. I. OF 1871.

THE CATTLE TRESPASS ACT, 1871.

1. Short title. Local extent. Commencement of Act.
2. Repeal of Acts. References to repealed Acts.
3. Interpretation Clause.
4. Establishment of pounds.
5. Control of pounds. Rates of charge for feeding impounded cattle.
6. Appointment of pound-keepers. *Ex-officio* pound-keepers in Madras and Bombay. Suspension or removal of pound-keepers. Pound-keepers may hold other offices. Pound-keepers to be 'public servants.'
7. To keep register and furnish returns.
8. To register seizures.
9. To take charge of and feed cattle.
10. Cattle damaging land. Police to aid seizures.
11. Cattle damaging public roads, canals and embankments.
12. Fines for cattle impounded. List of fines and charges for feeding.
13. Procedure when owner claims the cattle and pays fines and charges.
14. Procedure if cattle be not claimed within a week.
15. Delivery to owner disputing legality of seizure, but making deposit.
16. Procedure when owner refuses or omits to pay the fines and expenses. Deduction of fines and expenses. Delivery of unsold cattle and balance of proceeds. Receipt.
17. Disposal of fines, expenses and surplus proceeds of sale.
18. Application of fines and unclaimed proceeds of sales.
19. Officers and pound-keepers not to purchase cattle at sales under Act. Pound-keepers when not to release impounded cattle.
20. Power to make complaints.
21. Procedure on complaint.
22. Compensation for illegal seizure. Release of cattle.
23. Recovery of compensation.
24. Penalty for forcibly opposing the seizure of cattle or rescuing the same.
25. Recovery of penalty for mischief committed by causing cattle to trespass.
26. Penalty for damage caused to land or crops or public roads by pigs.
27. Penalty on pound-keeper failing to perform duties.
28. Application of fines recovered under Section 25, 26 or 27.
29. Saving of right to sue for compensation.
30. Set-off. Schedule of repealed Acts.

An Act to consolidate and amend the law relating to Trespasses by Cattle.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to trespasses by cattle; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

I. This Act may be called 'The Cattle Trespass Act, 1871 :'

Local extent.

It extends to the whole of British India except the Presidency Towns and such districts or tracts of country as the Local Government, with the sanction of the Governor-General in Council, may exclude from its operation.

Commencement of Act.

And it shall come into force on the passing thereof.

Repeal of Acts.

II. The Acts mentioned in the Schedule hereto annexed are repealed.

References to repealed Acts.

References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

All pounds established, pound-keepers appointed and villages determined, under Act III of 1857 *(relating to trespasses by Cattle)*, shall be deemed to be, respectively, established, appointed and determined under this Act.

Interpretation Clause.

III. In this Act:—

'Officer of Police' includes also Village Watchman, and 'Cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

CHAPTER II.

Pounds and Pound-keepers.

Establishment of Pounds.

IV. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the Local Government, from time to time directs.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

Control of Pounds. Rates of charge for feeding impounded cattle.

V. The pounds shall be under the control of the Magistrate of the District; and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Appointment of pound-keepers.

VI. The Magistrate of the District shall also appoint for each pound a pound-keeper:

Ex-officio pound-keepers in Madras and Bombay.

Provided that, in the Presidency of Fort St. George, the heads of villages, and, in the Presidency of Bombay, the Police pátíls, or (where there are no police pátíls) the heads of villages, shall be *ex-officio* the keepers of village-pounds.

Suspension or removal of pound-keepers.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Pound-keepers may hold other offices.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers to be 'public servants.'

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

Duties of Pound-keepers.

To keep registers and furnish returns.

VII. Every pound-keeper shall keep such registers and furnish such returns as the Local Government from time to time directs.

To register seizures.

VIII. When cattle are brought to a pound, the pound-keeper shall enter in his register,

(*a*) the number and description of the animals,

(*b*) the day and hour on and at which they were so brought,

(*c*) the name and residence of the seizer, and

(*d*) the name and residence of the owner, if known,

and shall give the seizer or his agent a copy of the entry.

To take charge of and feed cattle.

IX. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed.

CHAPTER III.

IMPOUNDING CATTLE.

Cattle damaging land.

X. The cultivator or occupier of any land,

or any person who has advanced cash for cultivation of the crop or produce on any land,

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land, and doing damage thereto, or to any crop or produce thereon, and take them or cause them to be taken without unnecessary delay to the pound established for the village in which the land is situate.

Police to aid seizures.

All officers of police shall, when required, aid in preventing (*a*) resistance to such seizures and (*b*) rescues from persons making such seizures.

Cattle damaging public roads, canals and embankments.

XI. Persons in charge of public roads, pleasure-grounds, plantations, canals, drainage-works, embankments and the like, and officers of police may seize or cause to be seized any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage-works or embankments, or found straying thereon,

and shall take them without unnecessary delay to the nearest pound.

Fines for cattle impounded.

XII. For every head of cattle impounded as aforesaid, the pound-keeper shall levy a fine according to the following scale:—

Elephant	two rupees.
Camel or buffalo	eight annas.
Horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	four „
Calf, ass, or pig	two „
Ram, ewe, sheep, lamb, goat or kid	one anna.

All fines so levied shall be sent to the Magistrate of the District through such officer as the Local Government from time to time directs.

List of fines and charges for feeding.

A list of the fines and of the rates of charge for feeding and watering cattle shall be stuck up in a conspicuous place on or near to every pound.

CHAPTER IV.

DELIVERY OR SALE OF CATTLE.

Procedure when owner claims the cattle and pays fines and charges.

XIII. If the owner of impounded cattle or agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

Procedure if cattle be not claimed within a week.

XIV. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest Police Station, or to such other officer as the Magistrate of the District appoints in this behalf.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(*a*) the number and description of the cattle,

(*b*) the place where they were seized,

(*c*) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said officer, or an officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

Delivery to owner disputing legality of seizure, but making deposit.

XV. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under Section 20, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

Procedure when owner refuses or omits to pay the fines and expenses.

XVI. If the owner or his agent appear and refuse or omit to pay or (in the case mentioned in Section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer, at such place and time and subject to such conditions as are referred to in Section 14.

Deduction of fines and expenses.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of unsold cattle and balance of proceeds.

The remaining cattle and the balance of the purchase-money; if any, shall be delivered to the owner or his agent, together with an account showing—

(*a*) the number of cattle seized,

(*b*) the time during which they have been impounded,

(*c*) the amount of fines and charges incurred,

(*d*) the number of cattle sold,

(*e*) the proceeds of sale, and

(*f*) the manner in which those proceeds have been disposed of.

Receipt.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money (if any) paid to him according to such account.

Disposal of fines, expenses and surplus proceeds of sales.

XVII. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges of feeding and watering deducted under Section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under Section 13.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and, if no claim thereto be preferred and established within that period, shall, at its expiry, dispose of them as hereinafter provided.

Application of fines and unclaimed proceeds of sales.

XVIII. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

(*a*) the salaries allowed to pound-keepers under the orders of the Local Government;

(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purposes connected with the execution of this Act;

and the surplus (if any) shall be applied, under orders of the Local Government, to the construction and repair of roads and bridges and to other purposes of public utility.

Officer and pound-keepers not to purchase cattle at sales under Act.

XIX. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained, shall, directly or indirectly, purchase any cattle at a sale under this Act.

Pound-keepers when not to release impounded cattle.

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

CHAPTER V.

Complaints of Illegal Seizures.

Power to make complaints.

XX. Any person whose cattle have been seized and detained under this Act may, at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District, or any Magistrate authorized to receive and try charges without reference by the Magistrate of the District.

Procedure on complaint.

XXI. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against, and make an enquiry into the case.

Compensation for illegal seizure.

XXII. If the seizure be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure and detention, reasonable compensation, not exceeding 100 Rupees, to be paid by the person who made the seizure, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle;

Release of cattle.

and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under

this Act shall be paid by the person who made the seizure.

Recovery of compensation.

XXIII. The compensation, fines and expenses mentioned in Section 22 may be recovered as if they were fines imposed by the Magistrate.

CHAPTER VI.

PENALTIES.

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

XXIV. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from a person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months, or with fine not exceeding 500 Rupees, or with both.

Recovery of penalty for mischief committed by causing cattle to trespass.

XXV. Any fine imposed for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all, or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops or public roads by pigs.

XXVI. Any owner or keeper of pigs who, through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten Rupees.

Penalty on pound-keeper failing to perform duties.

XXVII. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of Section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty Rupees.

Such fines may be recovered by deductions from the pound-keeper's salary.

Application of fines recovered under Section 25, 26 or 27.

XXVIII. All fines recovered under Section 25, 26 or 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

CHAPTER VII.

SUITS FOR COMPENSATION.

Saving of right to sue for compensation.

XXIX. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court.

XXX. Any compensation paid to such person under this Act by order of the convicting Magistrate, shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

Set-off.

SCHEDULE.

(See Section 2.)

Number and year.	Title of Act.
III of 1857 ...	An Act relating to trespasses by cattle.
V of 1860 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).
XXII of 1861 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).

ACT No. II. OF 1871.

An Act to extend the Prisons' Act, 1870, to Coorg.

Preamble.

For the purpose of extending the Prisons' Act, 1870, to Coorg; It is hereby enacted as follows:—

Extension to Coorg of Act XXVI of 1870.

I. The said Act shall extend to the territories under the administration of the Chief Commissioner of Coorg, but subject to the following modifications (that is to say):—

(*a.*) The preamble and Sections 1 and 6 shall be construed as if, after the words 'Central Provinces,' the word 'Coorg' were inserted.

(*b.*) Section 1 shall be construed as if, for the words and figures 'December, 1870,' the words and figures 'February, 1871' were substituted.

ACT No. III. OF 1871.

THE INDIAN PAPER CURRENCY ACT, 1871.

1. Short title. Local extent. Commencement.
2. Acts repealed.
3. Functions of Department of Issue.
4. Head Commissioner. Commissioners at Madras and Bombay.
5. Power to establish Circles of Issue.
6. Deputy Commissioners.
7. Subordination of Commissioners and Deputy Commissioners.
8. Appointment, suspension and removal of officers.
9. Head Commissioner to provide and distribute Currency Notes. Notes where payable.
10. Signatures to notes.
11. Issue of notes for silver. Proviso.
12. Issue of notes for gold.
13. Expense of melting and assaying bullion received for notes. Loss of weight.
14. Certificates for bullion. Contents of certificate.
15. Notes where legal tender.
16. Bullion received for notes to be kept as a reserve. Except amount fixed as minimum limit of circulation.
17. Investment of such amount. Appropriation of coin, bullion and securities. Sale or exchange of bullion and foreign coin.
18. Trustees of securities purchased under Act.
19. Power to sell such securities. Power to replace them.
20. Interest on such securities to be entered in a separate account. "Profits of Notes Circulation." Annual account.
21. Prohibition of issue of private bills or notes payable to bearer on demand. Exception in favour of cheques.
22. Penalty for issuing such bills or notes. Prosecutions. Recovery of fines.
23. Monthly abstracts of accounts.
24. Description of notes in indictments.
25. Supplementary powers of the Government of India. Schedule.

An Act to consolidate and amend the law relating to the Government Paper Currency.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the Government Paper Currency; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

I. This Act may be called "The Indian Paper Currency Act, 1871":

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the passing thereof.

Acts repealed.

II. The Acts mentioned in the schedule hereto annexed are repealed.

All appointments made, rules prescribed, circles of issue established, notifications published, and notes issued under any such Act shall be deemed to be respectively made, prescribed, established, published and issued under this Act.

II.—The Department of Issue.

Functions of Department of Issue.

III. There shall continue to be a Department of the public service, to be called the Department of Issue, whose function shall be the issue of Promissory Notes of the Government of India payable to bearer on demand, for such sums, not being less than five rupees, as the Governor-General in Council from time to time directs.

Head Commissioner.

Commissioners at Madras and Bombay.

IV. At the head of such Department shall be an officer called the Head Commissioner of the Department of Issue, and two other officers, called respectively the Commissioner of the Department of Issue at Madras and the Commissioner of the Department of Issue at Bombay.

Power to establish Circles of Issue.

V. The Governor-General in Council may from time to time, by order published in the *Gazette of India*,

establish Districts, to be called Circles of Issue, three of which circles shall include the Towns of Calcutta, Madras and Bombay,

respectively, appoint in each circle some one town to be the place of issue of notes, as hereinafter provided,

establish in such town an Office or Offices of Issue, and

declare that, for the purposes of this Act, any such town (other than Calcutta, Madras or Bombay) shall be deemed to be situate within such Presidency as is specified in the order.

Deputy Commissioners.

VI. For each Circle of Issue other than those which include the Towns of Calcutta, Madras and Bombay, there shall be an officer called the Deputy Commissioner of Issue.

Subordination of Commissioners and Deputy Commissioners.

VII. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner:

the Deputy Commissioners in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner; and

the Deputy Commissioners in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay respectively.

Appointment, suspension and removal of officers.

VIII. All officers under this Act shall be appointed, and may be suspended or removed, by the Governor-General in Council.

III.—Supply and Issue of Currency Notes.

Head Commissioner to provide and distribute Currency Notes.

IX. The Head Commissioner of Issue shall provide Promissory Notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, and shall supply the Commissioners at Madras and Bombay, and the several Deputy Commissioners with such notes as they require for the purposes of this Act.

Notes where payable.

All such notes shall bear upon them the name of the town from which they are severally issued, and shall be payable only—

at the Office or Offices of Issue of such town and at the Presidency Town of the Presidency within which such town is situate.

Signatures to Notes.

X. The name of the Head Commissioner, of either of the Commissioners, of a Deputy Commissioner, or of some other person authorized by the said Head Commissioner, or by either of the said Commissioners, to sign notes issued under this Act, shall be subscribed to every such note, and may be impressed thereon by machinery.

Names so impressed shall be taken to be valid signatures.

Issue of Notes for silver.

XI. The Head Commissioner, the Commissioners, and the Deputy Commissioners shall, in their respective Circles of Issue, on the demand of any person, issue from the Office or Offices of Issue established in their respective Circles, promissory notes of the Government of India payable to bearer on demand, of the denominations prescribed under this Act, on the terms following:—

(*a*) in exchange for the amount thereof in current silver coin of the Government of India, or,

(*b*) in exchange for the amount thereof in silver bullion or foreign silver coin at the rate of nine hundred and seventy-nine rupees per one hundred and eighty thousand grains of silver fit for coinage and of the standard fineness prescribed by the Indian Coinage Act, 1870:

Proviso.

Provided that in all places where there is no Mint of the Government of India, any such Head Commissioner, Commissioner, or Deputy Commissioner may refuse to issue notes in exchange for silver bullion or foreign coin under this section.

Issue of Notes for gold.

XII. The Governor-General in Council may from time to time, by order published in the *Gazette of India*, direct that notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices of Issue as are named in the order, in exchange for gold

coin of full weight of the Government of India or for foreign gold coin or gold bullion, at the rates and according to the rules and conditions fixed by such order.

Expense of melting and assaying bullion received for notes.

XIII. The Head Commissioner, Commissioners, and Deputy Commissioners may require any bullion or foreign coin received under Section 11 or Section 12 to be melted and assayed.

Loss of weight.

Any loss of weight caused by such melting or assay shall be borne by the person tendering the bullion or coin.

Certificates for bullion.

XIV. Every person so tendering bullion or foreign coin and depositing it in any Office of Issue shall, after the expiration of the time necessary for melting and assaying the same, be entitled to receive therefor a certificate signed by the person authorized to issue the notes aforesaid.

Contents of certificate. Such certificate shall—

(*a*) acknowledge the receipt of such bullion or foreign coin,

(*b*) state the amount of notes issued under this Act, or of such notes and cash, to which the holder is entitled in exchange for such bullion or coin,

(*c*) state the interval on the expiration of which, if the certificate be presented to such office, the holder shall be entitled to receive such amount.

Notes where legal tender.

XV. Within any of the said Circles of Issue a note issued under this Act from any office of Issue in such Circle, shall be a legal tender to the amount expressed in such note, in payment or on account of—

any revenue or other claim to the amount of five rupees and upwards due to the Government of India,

any sum of five rupees and upwards due by the Government of India, or by any body corporate or person in British India:

Provided that no such note shall be deemed to be a legal tender by the Government of India at any Office of Issue.

IV.—Reserve.

Bullion received for notes to be kept as a reserve Except amount fixed as minimum limit of circulation.

XVI. The whole amount of the coin and bullion received under this Act for notes shall be retained and secured as a reserve to pay such notes, with the exception of such an amount, not exceeding sixty millions of rupees, as the Governor-General in Council, with the consent of the Secretary of State for India, from time to time fixes.

Investment of such amount.

XVII. The amount so fixed shall be published in the *Gazette of India*, and the whole or such part thereof as the Governor-General in Council from time to time fixes shall be invested in securities of the Government of India: the said coin, bullion and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said notes; and the said notes shall be deemed to have been issued on the security of such coin,

Appropriation of coin, bullion, and securities.

bullion and securities, as well as on the general credit of the Government:

Sale or exchange of bullion and foreign coin.

Provided that any silver bullion or foreign coin received under this Act may be sold or exchanged for silver coin of the Government of India, and that any gold coin or bullion received under this Act may be sold or exchanged for silver coin or bullion to be so appropriated and set apart instead of the gold coin or bullion.

For the purposes of this section, silver bullion and coin shall be rated at ninety-eight rupees per eighteen thousand grains of standard fineness, and gold bullion and coin at the rates fixed by the Governor-General in Council under Section 12.

Trustees of securities purchased under Act.

XVIII. The Government securities so purchased shall be held by the Head Commissioner and the Master of the Mint at Calcutta in trust for the Secretary of State for India in Council.

Power to sell such securities.

XIX. The Head Commissioner may, at any time when ordered so to do by the Governor-General in Council, sell and dispose of any portion of the abovementioned limited amount of Government Securities.

Power to replace them.

For the purpose of effecting such sales, the Master of the Mint at Calcutta shall, on a request in writing from the Head Commissioner, at all times sign and endorse such Government Securities, and the said Head Commissioner, if so directed by the Governor-General of India in Council, may purchase Government Securities to replace such sales.

Interest on such securities to be entered in a separate account.

XX. The interest accruing due on the securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor-General in Council.

"Profits of Notes Circulation."

The amount of such interest shall from time to time, as it becomes due, be paid to the credit of the Government of India, under the head of "Profits of Notes Circulation,"

Annual account.

and an account showing the amount of such profits and of the charges and expenses incidental thereto, shall be made up and published annually in the *Gazette of India.*

V.—Private Bills payable to Bearer on Demand.

Prohibition of issue of private bills or notes payable to bearer on demand.

XXI. No body corporate or person in British India shall draw, accept, make or issue any bill of exchange, hundi, Promissory Note or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the bills, hundís or notes payable to bearer on demand, of any such body corporate or of any such person:

Exception in favour of cheques.

Provided that cheques or drafts payable to bearer on demand or otherwise, may be drawn on bankers, shroffs, or agents, by their customers or constituents, in respect of deposits of money in the hands of such bankers, shroffs, or agents, and held by them at the credit and disposal of the persons drawing such cheques or drafts.

XXII. Any body corporate or person committing any offence

Penalty for issuing such bills or notes.

under Section 21 shall, on conviction before a Magistrate of Police or a person exercising the full powers of a Magistrate, be punished with a fine equal to the amount of the bill, hundí, note or engagement in respect whereof the offence is committed.

Prosecutions.

Every prosecution under this section shall be instituted by the Head Commissioner, or Commissioner or Deputy Commissioner, as the case may be, of the Circle of Issue in which such bill, hundí, note or engagement is drawn, accepted, made or issued.

Recovery of fines.

All fines imposed under this section may be recovered, if for offences committed outside the local limits of the Presidency Towns, in the manner prescribed by the Code of Criminal Procedure, and, if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of those towns in force for the time being.

VI.—Miscellaneous.

Monthly abstracts of accounts.

XXIII. An abstract of the accounts of the Department of Issue showing—

(*a*) the whole amount of notes in circulation,

(*b*) the amount of coin and bullion reserved, distinguishing gold from silver, and

(*c*) the amount of the Government securities held by the said Department,

shall be made up monthly in Calcutta, and published as soon as may be in the *Gazette of India.*

Description of notes in indictments.

XXIV. All notes issued under this Act shall be deemed to be Promissory Notes of the Government of India, and may be described as promissory notes of the Government of India in all indictments, and in criminal and civil proceedings.

Supplementary powers of the Government of India.

XXV. The Governor-General in Council may from time to time, by notification in the *Gazette of India*—

(1) fix the amounts (not being less than five rupees) for which notes shall be issued under this Act,

(2) alter the limits of any of the said Circles of Issue,

(3) declare the places at which notes shall be issued under this Act,

(4) fix the rates, rules and conditions at and according to which gold may be taken in exchange for Government Promissory Notes issued under this Act,

(5) fix the charge for melting and assaying bullion and foreign coin received for such notes,

(6) fix the interval on the expiration of which holders of certificates under Section 14 shall be entitled to receive such notes,

(7) regulate any matters relative to Paper Currency which are not provided for by this Act,

(8) revoke or alter any notification previously made under this Act.

Every such notification shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act:

Provided that no notification under clause (4) of this section shall have effect until six months have elapsed from the date of its appearance in the *Gazette of India*.

SCHEDULE.

Number and year of Act.	Title.
XIX of 1861 ...	An Act to provide for a Government Paper Currency.
XXIV of 1861 ...	An Act to enable the Banks of Bengal, Madras and Bombay to enter into arrangements with the Government for managing the issue, payment and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries.
I of 1866 ...	An Act to amend Act XIX of 1861 *(to provide for a Government Paper Currency)*.
XXX of 1867 ...	An Act to amend Act XIX of 1861 *(to provide for a Government Paper Currency)*.
XV of 1870 ...	An Act for the further amendment of Act XIX of 1861.

ACT NO. IV. OF 1871.

THE CORONERS' ACT, 1871.

1. Short title. Local extent. Commencement.
2. Repeal of enactments.
3. Coroners of Calcutta, Madras and Bombay.
4. Their appointment, suspension and removal. Present Coroners.
5. Coroners to be 'public servants.'
6. Power to hold other offices.
7. Oath to be taken by Coroner.
8. Jurisdiction to enquire into deaths.
9. Coroner to be sent for when prisoner dies. Exception when death caused by cholera.
10. Power to hold inquests on bodies within local limits wherever cause of death occurred.
11. Power to disinter body.
12. Summoning jury. Inquest may be on Sunday.
13. Opening Court.
14. Jurors to be sworn.
15. View of body.
16. Proclamation for witnesses.
17. Summoning witnesses.
18. *Post-mortem* examinations. Fees to medical witnesses.
19. Evidence to be on oath. Evidence on behalf of accused. Interpreter. Questions suggested by jury.
20. Coroner to take down evidence in writing. Witnesses to sign depositions. Coroner to subscribe depositions.
21. Adjournment of inquest. Jurors' recognizances.
22. Coroner to sum up to jury.
23. Coroner to draw up inquisition.
24. Contents of inquisition. Form of inquisition.
25. Procedure when verdict amounts to murder, culpable homicide, or killing by negligence.
26. Coroner may issue warrant against accused.
27. Power to accept bail.
28. Warrant for burial.
29. Inquisitions not to be quashed for want of form.
30. Cessation of jurisdiction as to treasure trove, wreck, &c. *Felo de se*. Deodands abolished.
31. Fine on juror neglecting to attend.
32. Certificate as to defaulting juror. Service of copy of certificate.
33. Levy of fine.
34. Jurors not to be summoned twice in the year.
35. Jurors on inquests on prisoners.
36. Coroner's salary.
37. Disbursements to be repaid.
38. Power to appoint Deputy. Oath to be taken by Deputy. Revocation of appointment.
39. Exemption from serving on juries.
40. Privilege from arrest.
41. Penalty for failure to comply with Act.
42. Limitation of suits.

An Act to consolidate and amend the laws relating to Coroners.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to Coroners in the Presidency Towns; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

I. This Act may be called "The Coroners' Act, 1871:"

Local extent.

It extends to the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay;

Commencement.

And it shall come into force on the passing thereof.

Repeal of enactments.

II. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

CHAPTER II.

APPOINTMENT OF CORONERS.

Coroners of Calcutta, Madras and Bombay.

III. Within the local limits of the ordinary original civil jurisdiction of each of the said High Courts, there shall be a Coroner. Such Coroners shall be called, respectively, the Coroner of Calcutta, the Coroner of Madras, and the Coroner of Bombay.

Their appointment, suspension and removal.

IV. Every such officer shall be appointed and may be suspended or removed by the Local Government.

Present Coroners.

Every person now holding such office shall be deemed to have been appointed under this Act.

Coroners to be 'public servants.'

V. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

Power to hold other offices.

VI. Any Coroner may hold simultaneously any other office under Government.

Oath to be taken by Coroner.

VII. Every person hereafter appointed to the office of Coroner shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

CHAPTER III.

DUTIES AND POWERS OF CORONERS.

Jurisdiction to enquire into deaths.

VIII. When a Coroner is informed that the death of any person has been caused by accident, homicide, suicide, or suddenly by means unknown, or that any person being a prisoner has died in prison,

and that the body is lying within the place for which the Coroner is so appointed,

the Coroner shall enquire into the cause of death.

Every such enquiry shall be deemed a judicial proceeding within the meaning of Section 193 of the Indian Penal Code.

Coroner to be sent for when prisoner dies.

IX. Whenever a prisoner dies in a prison situate within the place for which a Coroner is so appointed, the Superintendent of the prison shall send for the Coroner before the body is buried. Any Superintendent failing herein shall, on conviction before a Magistrate, be punished with fine not exceeding 500 Rupees.

Nothing in the former part of this section applies to cases in which the death has been caused by cholera or other epidemic disease.

Power to hold inquests on bodies within local limits wherever cause of death occurred.

X. Whenever an inquest ought to be holden on any body lying dead within the local limits of the jurisdiction of any Coroner, he shall hold such inquest, whether or not the cause of death arose within his jurisdiction.

Power to order body to be disinterred.

XI. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition where the first was insufficient.

Summoning jury.

XII. On receiving notice of any death mentioned in Section 8, the Coroner shall summon five, seven, nine, eleven, thirteen or fifteen respectable persons to appear before him at a time and place to be specified in the summons, for the purpose of enquiring when, how, and by what means the deceased came by his death.

Inquest may be on Sunday.

Any inquest under this Act may be held on a Sunday.

Opening Court.

XIII. When the time arrives, the Coroner shall proceed to the place so specified, open the Court by proclamation, and call over the names of the jurors.

Jurors to be sworn.

XIV. When a sufficient jury is in attendance, he shall administer an oath to each juror to give a true verdict according to the evidence, and shall then proceed with the jury to view the body.

View of body.

XV. The Coroner and the jury shall view and examine the body at the first sitting of the inquest, and the Coroner shall make such observations to the jury as the appearance of the body requires.

Proclamation for witnesses.

XVI. The Coroner shall then make proclamation for the attendance of witnesses, or, where the enquiry is conducted in secret, shall call in separately such as know anything concerning the death.

Summoning witnesses.

XVII. It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses; the Coroner shall enquire of such circumstances and the cause of the death; and if before or during the enquiry he is informed that any person can give evidence material thereto, may issue a summons requiring him to attend and give evidence on the inquest.

Any person failing so to attend or give evidence shall be deemed to have commited an offence under Section 174 or 176 of the Indian Penal Code, as the case may be.

For the purpose of causing prisoners to be brought up to give evidence, the Coroner shall be deemed a Criminal Court within the meaning of Act XV of 1869 *(to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.)*

Post-mortem examinations.
Fees to medical witnesses.

XVIII. The Coroner may direct the performance of a *post-mortem* examination, with or without an analysis of the contents of the stomach or intestines, by any medical witness summoned to attend the inquest: and every medical witness, other than the Chemical Examiner to Government, shall be entitled to such reasonable remuneration as the Coroner thinks fit.

Evidence to be on oath.
Evidence on behalf of accused.

XIX. All evidence given under this Act shall be on oath, and the Coroner shall be bound to receive evidence on behalf of the party (if any) accused of causing the death of the deceased person.

Interpreter.

Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the questions put to, and the answers given by, the witnesses.

Questions suggested by jury.

After each witness has been examined, the Coroner shall enquire whether the jury wish any further questions to be put to the witness, and if the jury wish that any such questions should be put, the Coroner shall put them accordingly.

Coroner to take down evidence in writing.

XX. The Coroner shall commit to writing the material parts of the evidence given to the jury, and shall read or cause to be read over such parts to the witness and then procure his signature thereto.

Witnesses to sign depositions.

Any witness refusing so to sign shall be deemed to have committed an offence under Section 180 of the Indian Penal Code.

Coroner to subscribe depositions.

Every such deposition shall be subscribed by the Coroner.

Adjournment of inquest.

XXI. The Coroner may adjourn the inquest from time to time, and from place to place.

Juror's recognizances.

Whenever the inquest is adjourned the Coroner shall take the recognizances of jurors to attend at the time and place appointed, and notify to the witnesses when and where the inquest will be proceeded with.

The amount of such recognizances shall in each case be fixed by the Coroner.

Coroner to sum up to jury.

XXII. When all the witnesses have been examined the Coroner shall sum up the evidence to the jury, and the jury shall then consider of their verdict.

Coroner to draw up inquisition.

XXIII. When the verdict is delivered the Coroner shall draw up the inquisition according to the finding of the jury, or, when the jury is not unanimous, according to the opinion of the majority.

Contents of inquisition.

XXIV. Every inquisition under this Act shall be signed by the Coroner with his name and style of office and by the jurors, and shall set forth—

(1) where, when, and before whom the inquisition is holden,

(2) who the deceased is,

(3) where his body lies,

(4) the names of the jurors, and that they present the inquisition upon oath,

(5) where, when, and by what means the deceased came by his death, and

(6) if his death was occasioned by the criminal act of another, who is guilty thereof.

If the name of the deceased be unknown, he may be described as a certain person to the jurors unknown.

Every such inquisition shall be in the form set forth in the second schedule hereto annexed, with such variation as the circumstances of each case require.

Procedure where verdict amounts to murder, culpable homicide, or killing by negligence.

XXV. When the verdict is that the death has been caused by culpable homicide amounting to murder, or by culpable homicide not amounting to murder, or by a rash or negligent act not amounting to culpable homicide, the Coroner shall bind by recognizance any person knowing or declaring anything material touching such murder, homicide, or act to appear at the next criminal sessions at which the trial is to be, then and there to prosecute or give evidence against the party charged.

Coroner to certify and deliver inquisition, depositions, and recognizances.

The Coroner shall certify and subscribe such recognizances, and shall, immediately after the inquest, deliver them, together with the inquisition and evidence, to the proper officer of the Court in which the trial is to be.

Warrant against person accused.

XXVI. The Coroner shall also, where the verdict justifies him in so doing, issue his warrant for the apprehension of the person accused and commit him to prison until he is thence discharged by due course of law, or, if he be already in prison, issue a detainer to the officer in charge of the jail in which he is.

Power to accept bail.

XXVII. In cases where the jury has found against any person a verdict of culpable homicide not amounting to murder or of killing by a rash or negligent act not amounting to culpable homicide, the Coroner may, if he thinks fit, accept bail with sufficient sureties for the appearance of such person at the next criminal sessions, and thereupon such person, if in custody of any officer of the Coroner's Court, or in any gaol under a warrant of commitment issued by the Coroner, shall be discharged therefrom.

Warrant for burial

XXVIII. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the burial of the body on which the inquest has been taken.

Inquisitions not to be quashed for want of form.

XXIX. No inquisition found upon or by any inquest shall be quashed for any technical defect.

Amendment of inquisition.

In any case of technical defect, a Judge of the High Court may, if he thinks fit, order the inquisition to be amended, and the same shall forthwith be amended accordingly.

Cessation of jurisdiction as to treasure trove, wrecks, &c.

XXX. It shall no longer be the duty of the Coroner to enquire whether any person dying by his own act was or was not *felo de se*, to enquire of treasure trove or wrecks, to seize any fugitive's goods, to execute pro-

cess, or to exercise as Coroner any jurisdiction not expressly conferred by this Act.

Felo de se. A *felo de se* shall not forfeit his goods.

Deodands. Deodands are hereby abolished.

CHAPTER IV.

Coroners' Juries.

Fine on juror neglecting to attend.

XXXI. Whenever any person has been duly summoned to appear as a juror by a Coroner, and fails or neglects to attend at the time and place specified in the summons, the Coroner may cause him to be openly called in his Court three times to appear and serve as a juror; and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, may impose such fine upon the defaulter, not exceeding fifty Rupees, as to the Coroner seems fit.

Certificate as to defaulting juror.

XXXII. The Coroner shall make out and sign a certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine so imposed, and the cause of such fine,

and shall send such certificate to one of the Magistrates of the place of which he is the Coroner,

Service of copy of certificate.

and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid and registered.

Levy of fine.

XXXIII. Thereupon such Magistrate shall cause the fine to be levied in the same manner as if it had been imposed by himself.

Jurors not to be twice summoned within the year.

XXXIV. Unless in case of necessity, no person who has appeared, or has been summoned to appear, as a juror on an inquest and has not made default, shall, within one year after such appearance or summons, be summoned to appear as a juror under this Act.

Jurors on inquest on prisoner.

XXXV. When an inquest is held on the body of a prisoner dying within a prison, no officer of the prison and no prisoner confined therein shall be a juror on such inquest.

CHAPTER V.

Rights and Liabilities of Coroners.

Coroner's salary.

XXXVI. Every Coroner shall be entitled to such salary for the performance of the duty of his office as is prescribed in that behalf by the Governor-General in Council.

Disbursements to be repaid.

XXXVII. All disbursements duly made by a Coroner for fees to medical witnesses, hire of rooms for the jury and the like, shall be repaid to him by the Local Government.

Power to appoint deputy.

XXXVIII. Every Coroner may from time to time, with the previous sanction of the Local Goverment, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests, and such deputy shall take and subscribe, before one of the Judges of the High Court, an oath that he will faithfully discharge the duties of his office.

Oath to be taken by deputy.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Revocation of appointment.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

Exemption from serving on juries.

XXXIX. No Coroner or Deputy Coroner shall be liable to serve as a juror.

Privilege from arrest.

XL. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.

Penalty for failure to comply with Act.

XLI. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

Limitation of suits.

XLII. No proceeding for anything done under this Act, or for any failure to comply with its provisions, shall be commenced or prosecuted after the expiration of three months from such fact or failure, nor after tender of sufficient amends.

FIRST SCHEDULE.

NUMBER AND YEAR.	TITLE.	EXTENT OF REPEAL.
33 Geo. III, cap. fifty-two	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further Regulations for the Government of the said territories and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and Government of the towns of Calcutta, Madras and Bombay.	Section 157.
9 Geo. IV, cap. seventy-four.	An Act for improving the administration of criminal justice in the East Indies.	Sections 5 and 6 and (so far as it relates to Coroners) Section 51.
Act IV of 1848 ...	An Act for regulating Coroners' Juries.	The whole.
Act XLV of 1850 ...	An Act to declare the law as to the jurisdiction of Coroners.*	The whole.

SECOND SCHEDULE.

Form of Inquisition.

AN INQUISITION taken at on the day of 187 , before E F, Coroner of , on view of the body of A B then and there lying dead, upon the oath of G H, I J, K L and M N, then and there duly sworn and charged to enquire when, how, and by what means the said A B came to his death.

We, the said jurors, find unanimously [*or* by a majority of] that the death of the said A B was caused, on or about the day of 187 , by [*here state the cause of death as in the following examples*.—

1. *Cases of homicide*]—a blow on the head with a stick inflicted on him by C D, under such circumstances that the act of C D was justifiable [*or* accidental] homicide.
   —a stab on the heart with a knife inflicted on him by C D, under such circumstances that the act of C D was culpable homicide not amounting to murder [*or* culpable homicide amounting to murder, *or* a rash *or* negligent act not amounting to culpable homicide].
2. *Cases of accident*]—falling out of a boat into the river Hooghly, whereby he was drowned.
   —a kick from a horse which fractured his skull and ruptured blood-vessels in his head.
3. *Cases of suicide*]—shooting himself through the head with a pistol.
   —arsenic, which he voluntarily administered to himself.
4. *Cases of sudden death by means unknown*]—disease of the heart.
   —apoplexy.
   —sun-stroke.

And so say the jurors upon their oath aforesaid.

Witness our hands. E F, Coroner of

G H, I J, K L, M N, O P (jurors).

ACT No. V. OF 1871.

THE PRISONERS' ACT, 1871.

1. Short title. Local extent. Commencement.
2. Repeal of Acts.
3. Warrants and writs to be directed to Police Officers.
4. Power to appoint Superintendents of Presidency Prisons.
5. Superintendents to detain persons committed.
6. Superintendents to return writs, &c., after execution or discharge.
7. Delivery of persons sentenced to imprisonment or death.
8. Delivery for intermediate custody of persons sentenced to transportation or penal servitude.
9. Order under Mutiny Act for intermediate custody.
10. Committals by High Court in execution of a decree or for contempt.
11. Delivery of persons sentenced by Police Magistrate.
12. Delivery of persons committed by Justice or Magistrate or Coroner for trial by High Court.
13. Custody pending enquiries under Act XXIII of 1861, Section 8.
14. Delivery of persons arrested in pursuance of warrant of High Court or Small Cause Court.
15. Warrants under Regulations for confinement of State prisoners.
16. Officers in charge of prisons may give effect to sentences of certain Courts.
17. Warrant of officer of such Court to be sufficient authority.
18. Procedure where jailor doubts the legality of warrant sent to him for execution.
19. Imprisonment in British India of persons convicted of certain offences in Native States. Proviso.
20. Certificate of conviction. Copy of proceedings.
21. Persons sentenced to penal servitude where sent, and how dealt with. Intermediate imprisonment. Time of intermediate imprisonment to count in discharge of sentence.
22. Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude.
23. Power to grant license to convict sentenced to penal servitude.
24. Holder of license to be allowed to go at large.
25. Apprehension of convict where license revoked.
26. Execution of warrant.
27. Apprehended convict to be brought up for re-commitment.
28. Re-commitment.
29. Penalty for breach of condition of the license.
30. Removal from one jail to another in territories under Local Government.
31. Removal of lunatic prisoners. Remand on recovery. Discharge. Act XXXVI of 1858, Section 9, applied to prisoners in lunatic asylum.
32. Government of India may order removal of prisoners from one prison to another.
33. Power to appoint persons to whom convicts shall be delivered.
34. Power to make rules as to convicts.
35. Discharge of convicts recommended for pardon. Schedule.

An Act to consolidate the laws relating to Prisoners confined by order of a Court.

Preamble. For the purpose of consolidating the laws relating to prisoners confined by order of a Court; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title. I. This Act may be called "The Prisoners' Act, 1871" :

Local extent. It extends to the whole of British India ;

Commencement. And it shall come into force on the passing thereof.

Repeal of Acts. II. The Acts mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

II.—PRISONERS IN THE PRESIDENCY TOWNS.

Warrants and writs to be directed to Police Officers. III. All writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary, or other criminal jurisdiction, shall be directed to and executed by any officer of Police within the local limits of such jurisdiction.

Power to appoint Superintendents of Presidency Prisons. IV. The Local Government may appoint officers who shall have authority to receive and keep prisoners committed to their custody under the provisions of this Part.

All such officers appointed under any Act hereby repealed, shall be deemed to be appointed under this Act.

Such officers shall be called, in Calcutta, the Superintendent of the Presidency Prison, in Madras, the Superintendent of Prisons for the town of Madras, and in Bombay, by such title or respective titles as the Local Government from time to time directs.

Every such officer is hereinafter referred to as 'the Superintendent'.

Superintendents to detain persons committed.

V. The Superintendent is hereby authorized and required to keep and detain all persons duly committed to his custody pursuant to the provisions of this Act, or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner, or other public officer lawfully exercising civil or criminal jurisdiction according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged by due course of law.

Superintendents to return writs, &c., after execution or discharge.

VI. The Superintendent shall forthwith after the execution of every such writ, order, or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order, or warrant to the Court or other officer by which or by whom the same has been issued or made, together with a certificate endorsed thereon and signed by the Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Delivery of persons sentenced to imprisonment or death.

VII. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the said Superintendent, together with the warrant of the said Court, and such warrant shall be executed by the Superintendent and returned by him to the High Court, when executed.

Delivery for intermediate custody of persons sentenced to transportation or penal servitude.

VIII. Whenever any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the imprisonment of such person shall have effect from such delivery.

Order under Mutiny Act for intermediate custody.

IX. Whenever any Judge of a High Court makes, under any Act for the time being in force for punishing mutiny and desertion, and for the better payment of the Army and their quarters, an order for the intermediate custody of an offender sentenced by a Court Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the Superintendent.

Committals by High Court in execution of a decree or for contempt.

X. Whenever any person is committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, he shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the Superintendent together with a warrant of commitment.

Delivery of persons sentenced by Police Magistrate.

XI. Whenever any person is sentenced by a Magistrate of Police for the town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magis-

trate, or is committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with a warrant of the Court.

Delivery of persons committed by Justice or Magistrate or Coroner for trial by High Court.

XII. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing him to have the body of such person before the Court for trial, and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant of commitment, in order that he may be dealt with according to law.

Custody, pending enquiries under Act XXIII of 1861, Section 8.

XIII. Pending any such enquiry as is mentioned in Section 8 of Act XXIII of 1861 *(to amend Act VIII of 1859)*, which the High Court considers it necessary to make, the defendant may be delivered by the officer of the said Court to the Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same section,

and the Superintendent is hereby authorized and required to detain such defendant in safe custody until he is re-delivered to the officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he is released by due course of law.

Delivery of persons arrested in pursuance of warrant of High Court or Small Cause Court.

XIV. Every person arrested in pursuance of a writ, warrant, or order of the High Court, in the exercise of its original civil jurisdiction,

or in pursuance of a warrant of any Court established in Calcutta, Madras, or Bombay under Act IX of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay)*.

or in pursuance of a warrant issued under Section 3 of this Act,

shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant, or order was issued, awarded, or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction;

and if such Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court otherwise orders, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction, in order that such person may be dealt with according to law;

and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

Warrants under Regulations for confinement of State prisoners.

XV. Any warrant of commitment under Regulation III of 1818 of the Bengal Code *(for the Confinement of State Prisoners)*, Regulation II of 1819 of the Madras Code *(for the Confinement of State Prisoners)*, and Regulation XXV of 1827 of the Bombay Code *(for the Confinement of State Prisoners, and for the Attachment of the Lands of Chieftains and others, for Reasons of State)*, may be directed to the

Superintendent in the same manner as the same might have been directed to the Sheriff under Act XXXIV of 1850 *(for the better Custody of State Prisoners)*, and Act III of 1858 *(to amend the Law relating to the arrest and detention of State Prisoners.)*

III.—Prisoners in the Mofussil.

Officers in charge of prisons may give effect to sentences of certain Courts.

XVI. Officers in charge of prisons situate outside the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay, shall be competent to give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal acting under the authority of Her Majesty, or of the Governor General in Council, or of any Local Government.

Warrant of officer of such Court to be sufficient authority.

XVII. A warrant under the official signature of an officer of such Court or tribunal shall be sufficient authority for holding any prisoner in confinement, or for sending any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him.

Procedure where jailor doubts the legality of warrant sent to him for execution.

XVIII. Any officer in charge of a prison doubting the legality of any warrant sent to him for execution under this Part, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant, shall refer the matter to the Local Government, by whose order on the case such officer and all other public officers shall be guided as to the future disposal of the prisoner.

Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

Imprisonment in British India of persons convicted of certain offences in Native States.

XIX. The Local Government may authorize the reception, detention, or imprisonment in any place under such Government, for the periods specified in their respective sentences, or persons sentenced within the territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for any of the following offences :—

counterfeiting coin,
uttering counterfeit coin,
murder,
culpable homicide not amounting to murder,
being a thug,
voluntarily causing grievous hurt,
administering poison,
kidnapping,
selling minors for purposes of prostitution,
rape,
robbery,
dacoity,
dacoity with murder,
robbery or dacoity with attempt to cause death or grievous hurt,
attempt to commit robbery or dacoity when armed with a deadly weapon,

making preparation to commit dacoity,
belonging to a gang of dacoits,
dishonest misappropriation of property,
breach of trust,
house-burning,
house-breaking,
forgery, and
theft of cattle;
or for an attempt to commit any of the above offences,
or for abetment, within the meaning of the Indian Penal Code, of suicide, by burning or burying alive, or of any of the other offences above specified,
or for such other offences as the Governor General in Council, from time to time, by order published in the *Gazette of India*, thinks fit to prescribe:

Proviso.

Provided that such sentences have been pronounced after trial before a tribunal in which an officer of Government, duly authorized in that behalf by such Native Prince or State, or by the Governor General in Council, is one of the presiding Judges.

Certificate of conviction.

Copy of proceedings.

XX. Every officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation is carried into effect.

IV.—Convicts sentenced to Penal Servitude.

Persons sentenced to penal servitude where sent, and how dealt with.

XXI. Every person sentenced to be kept in penal servitude may, during the term of the sentence, be confined in such prison within British India as the Governor General in Council by general order, from time to time, directs;
and may, during such time, be kept to hard labour;
and may, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons sentenced by the convicting Court to rigorous imprisonment may, for the time being, by law be dealt with.

Intermediate imprisonment.

Time of intermediate imprisonment to count in discharge of sentence.

The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Law respecting convicts sentenced to transportation or imprisonment with hard labour applied to persons sentenced to penal servitude.

XXII. All Acts and Regulations now in force within British India, with respect to convicts under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to apply to persons under any sentence of penal servitude.

Power to grant license to convict sentenced to penal servitude.

XXIII. The Governor General in Council may grant to any convict sentenced to be kept in penal servitude, a license to be at large within British India or in such part thereof as in such license is expressed, during such

portion of his term of servitude, and upon such conditions as to the Governor General in Council seem fit.

The Governor General in Council may at any time revoke or alter such license.

Holder of license to be allowed to go at large.

XXIV. So long as such license continues in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Apprehension of convict where license revoked.

XXV. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that such license has been revoked, and require him to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly.

Execution of warrant.

XXVI. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace, or Magistrate, or other authority having jurisdiction in the place where the same is executed.

Apprehended convict to be brought up for re-commitment.

XXVII. The convict, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom it has been issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the convict is apprehended.

Such Justice or Magistrate shall thereupon make out his warrant under his hand and seal, for the re-commitment of the convict to the prison from which he was released by virtue of the said license.

Re-commitment.

XXVIII. Such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

Penalty for breach of condition of the license.

XXIX. If a license be granted under Section 23 upon any condition specified therein, and the convict to whom the license is granted violates any such condition,

or goes beyond the limits specified in the license,

or, knowing of the revocation of such license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended,

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

V.—Removal of Prisoners.

Removal from one jail to another in ter-

XXX. When any person is, or has been, sentenced to imprisonment by any Court, the Local Government, or (subject to its orders and under its control) the Inspector

ritories under Local Government.

General of Jails, may order his removal during the period prescribed for his imprisonment, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

Removal of lunatic prisoners.

XXXI. Whenever it appears to the Local Government that any person, detained or imprisoned under any order or sentence of any Magistrate or Court, is of unsound mind, such Government, by a warrant setting forth the grounds of belief that such person is of unsound mind, may order his removal to a lunatic asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the Local Government directs during the remainder of the term of imprisonment ordered by the sentence; or, if it be certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be detained under medical care or treatment, then until he is discharged according to law.

Remand on recovery.

When it appears to the said Government that such prisoner has become of sound mind, the Local Government, by a warrant directed to the person having charge of the prisoner, shall remand the prisoner to the prison from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged.

Discharge.

Act XXXVI of 1858, Section 9, applied to prisoners in lunatic asylum.

The provisions of Section 9 of Act XXXVI of 1858 *(relating to Lunatic Asylums)* shall apply to every person confined in a lunatic asylum under this section after the expiration of the term of imprisonment to which he has been sentenced; and the time during which he has been so confined shall be reckoned as part of such term.

Government of India may order removal of prisoners from one prison to another.

XXXII. When any person is, or has been, sentenced to imprisonment by any Court, the Governor General in Council may order his removal during the period prescribed for his imprisonment, from the prison in which he is confined to any other prison in British India.

VI.—MANAGEMENT OF TRANSPORTED CONVICTS.

Power to appoint persons to whom convicts shall be delivered.

XXXIII. The Governor General in Council may appoint the Governor or other authority at any place in British India, or one or more Superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered.

Power to make rules as to convicts.

XXXIV. The Governor General in Council may, from time to time, prescribe rules as to the following matters:—

the classification of convicts;

their confinement, treatment, discipline, and employment;

their punishment for misbehaviour, disorderly conduct, neglect, or disobedience; and

the manner in which the proceeds (if any) of their employment shall be disposed of.

VII.—DISCHARGE OF CONVICTS.

Discharge of convicts recommended for pardon.

XXXV. Any Court established under the twenty-fourth and twenty-fifth of Victoria, chapter one hundred and four, may in any case in which it has recommended to Her Majesty the granting of a free pardon to any convict, permit him to be at liberty on his own recognizance.

SCHEDULE.

(See Section 2.)

Number and year of Act.	Subject or Title.	Extent of repeal.
VII of 1837 ...	Charter Courts' power to discharge Convicts recommended for pardon.	The whole.
XVI of 1840 ...	An Act concerning the management of Convicts transported to places within the territories of the East India Company.	The whole.
XXIV of 1855 ...	An Act to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.	Sections 5, 6, 7, 9, 10, 11, and 12.
XVII of 1860 ...	An Act to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders) and to make certain provisions in lieu thereof.	The whole.
XXV of 1861 } VIII of 1869 } ...	The Code of Criminal Procedure ...	Sections 49, 49A, and 396.
VIII of 1863 ...	An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.	The whole.
VIII of 1865 ...	An Act to make valid the imprisonment of certain persons arrested under the process of the High Court of Judicature at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.	The whole.
II of 1867 ...	An Act to make further provision for the removal of prisoners.	The whole.
XII of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras, and Bombay.	The whole.
XXVI of 1869 ...	An Act to correct a clerical error in Act No. VIII of 1863.	The whole.

ACT No. VI. OF 1871.

THE BENGAL CIVIL COURTS' ACT, 1871.

CHAPTER I.

PRELIMINARY.

1. Short title. Local extent. Partial exclusion of Mofussil Small Cause Courts. Commencement of Act.
2. Repeal of enactments.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

3. Number of District Judges.
4. Number of Subordinate Judges and Munsifs.
5. Vacancies in District Judgeships.
6. Vacancies in Munsifships.
7. Additional Judges.
8. Temporary charge of District Judgeship.
9. Transfer of proceedings on death, &c., of Subordinate Judge. Temporary charge of Munsifship.
10. Power to confer judicial powers on officers in Káchár, Assam, Chota Nágpúr and Kuch Bihár.
11. Control of Civil Courts in a District.
12. First District Judges, Additional Judges, Subordinate Judges and Munsifs.
13. Declaration of office.
14. Seals of Courts.
15. District Judges, Subordinate Judges and Munsifs to be deemed Civil Courts.
16. Power to fix sites of Courts.
17. Vacation.

CHAPTER III.

ORDINARY JURISDICTION.

18. Power to fix local limits of jurisdiction.
19. Extent of original jurisdiction of District Judge or Subordinate Judge.
20. Extent of Munsif's jurisdiction.
21. Appeals from District Judges and Additional Judges.
22. Appeals from Subordinate Judges and Munsifs.
23. Power to require witnesses or parties to be sworn.
24. Certain decisions to be according to Native law.
25. Judges not to try suits in which they are interested.

CHAPTER IV.

SPECIAL JURISDICTION.

26. Power to refer to Subordinate Judges appeals from Munsifs.
27. Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.
28. Disposal of proceedings so transferred.
29. Power to invest Subordinate Judges with Small Cause jurisdiction.
30. Amendment of Act XI of 1865, Section 51.

CHAPTER V.

MISBEHAVIOUR.

31. Suspension or removal of District Judge or Additional Judge.
32. Suspension of Subordinate Judge.
33. Suspension of Munsifs by High Court.
34. Suspension of Munsifs by District Judges.

CHAPTER VI.

MINISTERIAL OFFICERS.

35. Appointment and removal of Ministerial Officers of District Courts.
36. Appointment and removal of Ministerial Officers of Subordinate Judges and Munsifs. Power to punish such Officers.
37. Transfer of Ministerial Officers.
38. Recovery of Fines.

SCHEDULE. Part I.—Bengal Regulations. Part II.—Acts.

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the District and Subordinate Civil Courts in the territories respectively under the Governments of the Lieutenant-Governors of the Lower and North-Western Provinces, of the Presidency of Fort William in Bengal; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

I. This Act may be called 'The Bengal Civil Courts' Act, 1871':

Local extent.

It extends to the territories for the time being respectively under the Governments of the said Lieutenant-Governors, except such portions thereof as for the time being are not subject to the ordinary jurisdiction of the High Courts and except the Jhánsí Division.

Partial exclusion of Mofussil Small Cause Courts.

Except this section and Sections 17, 29 and 30, nothing herein contained applies to Courts of Small Causes established under Act XI of 1865.

Commencement of Act.

This Act shall come into force on the passing thereof.

Repeal of enactments.

II. The Regulations and Acts mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of such schedule.

CHAPTER II.

Constitution of Civil Courts.

Number of District Judges.

III. The number of District Judges to be appointed under this Act shall be fixed, and may from time to time be altered, by the Local Government.

Number of Subordinate Judges and Munsifs.

IV. The number of Subordinate Judges and Munsifs to be appointed under this Act in each District, shall be fixed, and may from time to time be altered, by the Local Government.

Vacancies in District Judgeships.

V. Whenever the office of District Judge or Subordinate Judge under this Act is vacant, or whenever the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges, the Local Government shall supply such vacancy or appoint such additional District Judges or Subordinate Judges, as the case may be.

Vacancies in Munsifships.

VI. Whenever the office of a Munsif is vacant, or when the Governor General in Council has sanctioned an increase of the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly:

Provided that the Local Government may, with the sanction of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif under this Act; and on such rules being made, no person shall be nominated to such office unless he possesses the qualifications required by the said rules.

Additional Judges.

VII. When the business pending before any District Judge requires the aid of Additional Judges for their speedy disposal, the Local Government may, upon the recommendation of the High Court, and subject to the sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a District Judge under Chapter III of this Act that the District Judge may, with the sanction of the High Court, assign to them, and, in the performance of such duties, they shall exercise the same powers as the District Judge.

Temporary charge of District Judgeship.

VIII. In the event of the death of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the station in which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the senior Subordinate Judge of the District shall, without relinquishing his ordinary duties, assume charge of the Judge's office,

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions,

and shall continue in charge of the office until it is resumed by the District Judge or assumed by an officer duly appointed thereto.

Transfer of proceedings on death, &c., of Subordinate Judge.

IX. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave when no person is appointed to act for him,

the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

Temporary charge of Munsifship.

A District Judge, on the occurrence within his District of any vacancy in the office of Munsif, may, pending the action of the High Court under Section 6, appoint such person as he thinks fit to act in such office.

And he shall forthwith report to the High Court the occurrence of every such vacancy and such appointment.

Power to confer judicial powers on officers in Káchár, Assam, Chota Nágpúr and Kuch Bihár.

X. The Local Government may invest with the powers of any Court under this Act any officer in the District of Káchár and the Divisions of Assam, Chota Nágpúr and Kuch Bihár.

Nothing in Sections 3 to 9 (inclusive), 32, 33 and 34, applies to any such officer. But all the other provisions of this Act apply, *mutatis mutandis*, to officers so invested.

Control of Civil Courts in a District.

XI. The general control over all the Civil Courts in any District is vested in the District Judge, but subject to the superintendence of the High Court.

First District Judges, Additional Judges, Subordinate Judges and Munsifs.

XII. The present Judges of the Zillah Courts, Additional Judges, Subordinate Judges and Munsifs shall be deemed to have been duly appointed to the offices the duties of which they have respectively discharged, and shall be the first District Judges, Additional Judges, Subordinate Judges and Munsifs under this Act.

Declaration of office.

XIII. Every District Judge, Additional Judge, Subordinate Judge or Munsif appointed after the passing of this Act shall, previously to entering on the duties of his office, make and subscribe a solemn declaration according to the following form:—

"I, A B, appointed to the office of

do solemnly declare that, in the trial and determination of all suits which may come under my cognizance, and in the

execution of all the other duties of my office, I will act according to the best of my abilities and judgment without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive on my behalf, any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute.

I will strictly adhere to all the rules prescribed for my guidance, and I will, in all respects, truly and faithfully execute the trust reposed in me.

(Signed) *A B*,

District [*or* Additional *or* Subordinate] Judge of
[*or* Munsif of]"

Such declaration shall be made—

by a District Judge, either before his predecessor in such office, or before the Magistrate of the District,

by an Additional Judge, a Subordinate Judge or Munsif, before the District Judge or the Magistrate of the District.

Seals of Courts.

XIV. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

District Judges, Subordinate Judges and Munsifs to be deemed Civil Courts.

XV. Every District Judge, Additional Judge, Subbordinate Judge and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Court of Civil Procedure and of this Act.

Power to fix sites of Courts.

XVI. The Local Government may fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Vacation.

XVII. Subject to such orders as may from time to time be issued by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as close holidays in the Courts subordinate thereto.

Such list shall be published in the local official *Gazette*, and the said days shall be observed accordingly.

CHAPTER III.

Ordinary Jurisdiction.

Power to fix local limits of jurisdiction.

XVIII. The Local Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any Civil Court under this Act:

Provided that, where more than one Subordinate Judge is appointed to any District, and where more than one Munsif is appointed to any Munsiffi, the Judge of the District Court may assign to each such Subordinate Judge or Munsif the local limits of his particular jurisdiction within such District or Munsif, as the case may be.

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to be fixed under this Act.

Extent of original jurisdiction of District Judge or Subordinate Judge.

XIX. The jurisdiction of a District Judge or Subordinate Judge extends, subject to the provisions in the Code of Civil Procedure, Section 6, to all original suits cognizable by the Civil Courts.

Extent of Munsif's jurisdiction.

XX. The jurisdiction of a Munsif extends to all like suits in which the amount or value of the subject-matter in dispute does not exceed one thousand rupees.

Appeals from District Judges and Additional Judges.

XXI. Appeals from the decrees and orders of District Judges and Additional Judges shall, when such appeals are allowed by law, lie to the High Court.

Appeals from Subordinate Judges and Munsifs.

XXII. Appeals from the decrees and orders of Subordinate Judges and Munsifs shall, when such appeals are allowed by law, lie to the District Judge, except where the amount or value of the subject-matter in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court:

Provided that the High Court may from time to time, with the previous sanction of the Local Government, order that all appeals from the decrees and orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the order, and such appeals shall thereupon be preferred accordingly.

Power to require witnesses or parties to be sworn.

XXIII. Every Court under this Act may require a witness or party to any suit or proceeding pending in such Court, to take such oath as is prescribed by the law for the time being in force.

Certain decisions to be according to Native law.

XXIV. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

In cases not provided for by the former part of this section, or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

XXV. No Munsif, Subordinate Judge, Additional Judge or District Judge shall try any suit in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No Subordinate Judge, Additional Judge or District Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Munsif, Subordinate Judge, Additional Judge or District Judge, he shall forthwith transmit the whole record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, Section 6.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to refer to Subordinate Judges appeals from Munsifs.

XXVI. Every District Judge may from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from the decisions of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

The District Judge may withdraw any appeals so referred and hear and dispose of appeals so withdrawn.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

XXVII. The High Court may from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge under his control appeals from orders of Munsifs preferred under the Code of Civil Procedure, Sections 36, 76, 85, 94, 119, 231, and 257, or under Act XXIII of 1861, Section 11.

The High Court may also from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

The proceedings referred to in the second clause of this section are the following (that is to say) :—

(1). Proceedings under Bengal Regulation V, 1799 *(to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the execution of Wills and Administration to the Estates of Persons dying intestate.)*

(2). Proceedings under Act XL of 1858 *(for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal)*, or Act IX of 1861 *(to amend the law relating to Minors.)*

(3). Claims to attached property under the Code of Civil Procedure, Section 246.

(4). Applications by judgment-debtors under Section 273 or Section 280 of the same Code.

(5). Applications to file awards under Section 327 of the same Code.

(6). Applications for permission to sue or appeal as a pauper.

(7). Applications for certificates under Act XXVII of 1860 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.)*

The District Judge may withdraw any proceedings so transferred and may either himself dispose of them, or, with the sanction of the High Court, transfer them to any other Subordinate Judge or Munsif under his control.

Disposal of proceedings so transferred.

XXVIII. Subject to the provisions of the last clause of Section 27, all proceedings transferred under the second clause of the same section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the High Court if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

Power to invest Subordinate Judges with Small Cause jurisdiction.

XXIX. The Local Government may invest, within such local limits as it from time to time appoints, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts, up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

Amendment of Act No. XI of 1865.

XXX. Section 51 of Act XI of 1865 *(to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature)* shall be read as if, for the words "Principal Sadr Amín," the words "Subordinate Judge" were substituted.

CHAPTER V.

MISFEAZANCE.

Suspension or removal of District Judge or Additional Judge.

XXXI. Any District Judge, Additional Judge, Subordinate Judge, or Munsif may, for any misconduct, be suspended or removed by the Local Government.

Suspension of Subordinate Judge.

XXXII. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court exercises this power, it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsifs by High Court.

XXXIII. The High Court may appoint a Commission for enquiring into the alleged misconduct of any Munsif.

On receiving the report of the result of any such enquiry, the High Court may, if it thinks fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

The provisions of Act XXXVII of 1850 *(for regulating enquiries into the behaviour of public servants)* shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

The High Court may also, previous to the appointment of such Commission, suspend any Munsif pending the result of the enquiry.

The High Court may, without appointing any such Commission, remove or suspend any Munsif, or reduce him to a lower grade.

Suspension of Munsifs by District Judges.

XXXIV. Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Munsif under his control.

Whenever a District Judge suspends from office any such Munsif, he shall forthwith send to the High Court a full report of the circumstances of the suspension, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

CHAPTER VI.

MINISTERIAL OFFICERS.

Appointment and removal of Ministerial Officers of District Courts.

XXXV. The Judges of the District Courts shall appoint the Ministerial Officers of such Courts, and, subject only to the general control of the Local Government, the said Judges may remove or suspend such Officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of Ministerial Officers of Subordinate Judges and Munsifs.

XXXVI. The Ministerial Officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Power to punish such Officers.

Every such Court may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any of its Ministerial Officers who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Local Government, may on appeal or otherwise reverse or modify every such order.

Nothing in this section or in Section 35 shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

Transfer of Ministerial Officers.

XXXVII. The Local Government may, at the instance of the District Judge, transfer from any Court in the territories subject to such Government, to any other Court in the same territories, all or any of the Ministerial Officers of such Judge or of any Subordinate Judge or Munsif under his control.

The District Judge may transfer all or any of the Ministerial Officers of any Court under his control to any other such Court.

Recovery of fines.

XXXVIII. Any fine imposed under this Chapter shall, if the order imposing it so directs, be received by deduction from the offender's salary.

SCHEDULE.

PART I.—BENGAL REGULATIONS.

Number and year.	Title.	Extent of Repeal.
III, 1793.	A Regulation for extending and defining the Jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature, for the Trial of Civil Suits, in the first Instance, established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.	So much as has not been repealed.
IV, 1793.	A Regulation for receiving, trying, and deciding Suits or Complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca and Moorshedabad.	Section 15.
VII, 1795.	A Regulation for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying Civil Suits, in the first Instance, at the City of Benares, and at Mirzapore, Ghazeepore, and Juanpore, in the Province of Benares, and for defining the Jurisdiction and Powers of those Courts.	So much as has not been repealed.
VIII, 1795.	A Regulation for extending to the Province of Benares, with Alterations and Modifications, Regulation IV, 1793, entitled "A Regulation for receiving, trying, and deciding Suits or Complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad;" and for exempting the Rajah of Benares and the Baboos of his Family, and certain Bankers, when Defendants, from giving the Security required from other Defendants.	Section 3.
II, 1803.	A Regulation for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the Trial of Civil Suits, in the first Instance, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	So much as has not been repealed.
III, 1803.	A Regulation for receiving, trying, and deciding Suits or Complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company.	Section 16, Clause 1.

PART I.—BENGAL REGULATIONS.—(*Continued.*)

Number and year.	Title.	Extent of Repeal.
VIII, 1805.	A Regulation for extending to the conquered Provinces situated within the Dooab and on the right Bank of the River Jumma, and to the Territory ceded to the Honourable the English East India Company in Bundlecund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain Parts of the said Laws and Regulations.	Section 6 and so much of Section 7 as extends to Regulation III, 1803, Section 16, Clause 1.
VII, 1832.	A Regulation for modifying certain of the provisions of Regulation V, 1831, and for providing Supplementary Rules to that Enactment.	So much as has not been repealed.
VIII, 1833.	A Regulation for the Occasional Appointment of Additional Judges of the Zillah and City Courts.	The whole.

PART II.—ACTS.

Number and year.	Title.	Extent of Repeal.
IX of 1844 ...	An Act for authorizing the institution of Suits in the Courts of Principal Sudder Ameens and Sudder Ameens.	Section 3 so far as it applies to the Bengal Presidency.
L of 1860 ...	An Act to amend the law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.	The whole.
XVI of 1868 ...	An Act to consolidate and amend the law relating to Principal Sudder Ameens, Sudder Ameens, and Munsifs in Bengal, and for other purposes.	The whole.
II of 1870 ...	An Act to provide for the appointment of additional Subordinate Judges and Munsifs in the Presidency of Fort William.	The whole.

ACT No. VII. OF 1871.

THE INDIAN EMIGRATION ACT.

1. Short title. Local extent. Commencement of Act.
2 Acts repealed.
3. Interpretation Clause.
4. Appointment of Emigration Agents.
5. Remuneration of Agents.
6. Appointment of Protectors of Emigrants.
7. No Protector to hold other office without permission.
8. General duties of Protectors of Emigrants. Inspecting vessels with return emigrants.
9. Appointment of Medical Inspector.
10. Depôts to be established in presidency towns.
11. Licensing of depôts.
12. Inspection by Protector and Medical Inspector.
13. Report to be made by Medical Inspector.
14. Protectors and Medical Inspectors to be public servants.
15. And to have facilities for inspections, &c.
16. Protector of Emigrants to license Recruiters.
17. Recruiter's license.
18. Duration and cancelment of license.
19. Form of license, and fee therefor.
20. Recruiter to wear badge.
21. Countersignature of Recruiter's license.
22. Contracts for labour out of India unlawful, except under this Act.
23. Places for emigration to which contracts may be made with natives.
24. Power to legalize emigration to other places. Proviso.
25. Contracts may be made for emigration to such other places.
26. From what ports emigration lawful.
27. Natives engaging to emigrate to appear before Magistrate. Examination and registration.
28. Copy of registration to be sent to Emigration Agent and Protector.
29. Registration of emigrants recruited in presidency towns.
30. Copy of registration by Protector to be forwarded to Agent.
31. Fee for registration.
32. Conveyance of emigrant to depôt. Emigrants to be accompanied by Recruiter. Recruiter to provide suitable food and lodging.
33. Arrival at depôt to be reported.
34. Copy of registration to be shewn to Medical Inspector. Emigrants to be inspected by him.
35. When emigrant to be sent back to place of registration.
36. Failure of Emigration Agent to pay sum required to enable emigrant to return.
37. Duty of Emigration Agent. Refusal of Agent, without consent of Protector, to be bound by contract made by Recruiter. Suits against Emigration Agent.
38. After examination and Medical Inspector's certificate, Emigration Agent to grant a pass.
39. Protector of Emigrants to attend personally at examination and passing. And to countersign pass.
40. Emigrant not to be received on board unlicensed vessel. Application for license. Contents of license. Survey of vessel. Report after survey, and certificate to Master. Bond to be executed by Master.
41. Space and accommodation required on board.
42. Provisions, fuel and water. Surgeon, medicines and stores. Supply of water for vessel calling at intermediate port. Supply in vessel fitted with distilling apparatus. Protector and Inspector of Emigrants to ensure compliance with above provisions.
43. Supply of extra clothing.
44. Certificates from Protector of Emigrants and from Emigration Agent.
45. Emigrants refusing to embark. Proviso.
46. Time of sailing for places east of Cape of Good Hope. For other places.
47. Emigrant unfit to undertake voyage.
48. Provisions of Act to be explained.
49. Procedure on embarkation. Emigrant to give his pass to Master. Protector to be personally present. Examination by Medical Inspector. One copy of list of emigrants given to Protector, to be signed and returned to Master. Emigrant without pass not to remain on board. Pass to be returned to emigrant on arrival at place of destination.
50. Copy of list of emigrants to be signed by Emigration Agent and returned to Master. And by him to be delivered at place of destination.
51. Protector to send list of emigrants to Government of place to which they sail.
52. Vessel sailing from Calcutta to depart within twenty-four hours of embarkation.
53. Vessel sailing from Calcutta to be towed to sea.
54. Copies of Act and rules to be kept on board.
55. Taking emigrants for Seychelles to quarantine-station of Mauritius.
56. Power of the Governor-General in Council to make rules.
57. Power to prohibit emigration to any place to which emigration is allowed.
58. Emigration to place mentioned to be suspended.
59. During suspension, laws against emigration to be in force as to place specified.
60. Revocation of suspension.
61. Power to prohibit emigration.
62. Power to increase fees.
63. Nomination of Agents for presidency towns. Proviso.
64. Power of Agents.
65. Operations of recruitment.
66. Protector of Emigrants.
67. Contracts of service with certain exceptions, to be made in India. Effect of contract.
68. Matters to be provided for in contract.
69. Power to extend Act to French Colonies not expressly named.
70. Vessel to carry European Surgeon and Interpreter.
71. For making unlawful contract of labour.
72. For recruiting without being licensed.
73. For Recruiter failing to take engaged labourers before Magistrate or Protector. For fraudulently inducing labourer to contract. For not supplying proper food. For not taking emigrant to depôt.

74. For forwarding emigrants, or allowing them to go, without being duly registered.
75. For false representation of Government authority.
76. For receiving emigrants in unlicensed vessel.
77. For clearing ships without complying with rules.
78. For taking on board after clearance, emigrants not entered in list.
79. For fraudulent acts whereby certificate becomes inapplicable to vessel.
80. For proceeding to sea without steam.
81. Customs officers may search and detain for purposes of this Act.
82. Prosecutions under this Act where and how instituted. Mode of recovering fines.
83. Probable length of voyages to places mentioned in Section 23.
84. Notification legalising emigration to new place to give probable length of voyages thither.
85. Exercise of powers of Magistrate of the District under this Act.
86. Act and rules made under it not to apply to certain vessels. First Schedule (Acts repealed). Second Schedule (Form of Recruiter's license). Third Schedule (Convention as to emigration to French Colonies).

An Act to consolidate the laws relating to the Emigration of Native Labourers.

Preamble.

Whereas it is expedient to consolidate the laws relating to the Emigration of Native Labourers; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

I. This Act may be called "The Indian Emigration Act, 1871:"

Local extent.

It extends to the whole of British India;

Commencement of Act.

And it shall come into force on the passing thereof.

Acts repealed.

II. The Acts mentioned in the first schedule hereto annexed are repealed. All contracts entered into, appointments made, and licenses granted, under any of the said Acts, shall be deemed to be respectively entered into, made and granted under this Act.

Interpretation Clause.

III. In this Act—

"Emigrate." "Emigrant."

"Emigrate" denotes the departure of any Native of India out of British India for the purpose of labouring for hire in some other place; and the word "emigrant" denotes any Native of India under engagement to emigrate:

"Magistrate."

"Magistrate" denotes any officer exercising the full powers of a Magistrate and in charge of a District, a Division, or a Sub-Division.

"Vessel."

"Vessel" includes anything made for the conveyance by water of human beings or property.

II.—EMIGRATION AGENTS.

Appointment of Emigration Agents.

IV. The Government of every place to which emigration is lawful under this Act may, from time to time, appoint a person to act as Emigration Agent in Calcutta, Madras and Bombay, respectively, but such nomination shall be subject to the approval of the Local Government.

Every Emigration Agent may be suspended or removed by the Government which appointed him.

Remuneration of Agents.

V. The remuneration to be given to Emigration Agents shall not depend upon, or be regulated by, the number of Emigrants sent by such Agents, but shall be in the nature of a fixed annual salary.

III.—PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment of Protectors of Emigrants.

VI. The Local Government may appoint a proper person to act as Protector of Emigrants at each of the three ports aforesaid, and may, with the sanction of the Governor General in Council, assign to such person such salary and establishment as shall be deemed proper.

Every Protector of Emigrants may be suspended or removed by the Local Government to which he is subordinate.

No Protector to hold other office without permission.

VII. No Protector of Emigrants appointed under this Act shall, except with the permission of the Local Government, hold any other office under Government, or follow any other profession or occupation.

General duties of Protectors of Emigrants.

VIII. Every Protector of Emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power generally protect and aid with his advice or otherwise all emigrants, and shall cause all the provisions of this Act to be duly complied with.

Inspecting vessels with return emigrants.

He shall also inspect on arrival all vessels bringing return emigrants to the port at which he is Protector, and enquire into the treatment received by such emigrants both during the period of their service in the place to which they emigrated and also during the voyage, and shall make a report thereon to the Local Government,

and he shall aid and advise such return emigrants so far as he reasonably can when called upon by them to do so.

Appointment of Medical Inspector.

IX. At each of the three ports aforesaid, the Local Government may appoint a competent person to be Medical Inspector of Emigrants; and may, with the sanction of the Governor General in Council, assign to the Medical Inspector so appointed such salary as is deemed proper.

Depôts to be established in presidency towns.

X. In each of the Towns of Calcutta, Madras and Bombay, or in the suburbs of those Towns, the Emigration Agent of every place to which emigration is lawful under this Act, shall establish a suitable depôt for the persons engaged as labourers for such place.

Licensing of Depôts.

XI. Every depôt shall be licensed by the Protector of Emigrants, after being inspected and approved of by him and by the Medical Inspector of Emigrants.

No license shall be in force for a longer period than a year, and any license may be cancelled by the Protector of Emigrants if he considers that the depôt for which it was granted is unhealthy or in any respect has become unsuitable for the purpose for which the depôt was established.

For every license granted under this section there shall be paid to the Protector a fee of fifteen rupees.

Inspection by Protector and Medical Inspector.

XII. Every Protector of Emigrants and every Medical Inspector of Emigrants shall from time to time, and at least once in every week, inspect the emigrants in the various depôts for the reception of emigrants about to embark from the port at which they are Protector and Medical Inspector respectively, and examine into the state of the depôts, and the manner in which the emigrants are therein lodged, fed, clothed and otherwise provided for and attended to.

Report to be made by Medical Inspector.

XIII. The Medical Inspector shall report to the Protector of Emigrants any circumstance which may come to his knowledge, showing that the depôt is not suitable for its purpose, or that the emigrants are treated with any neglect or oppression.

Protectors and Medical Inspectors to be public servants.

XIV. Every Protector of Emigrants and every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

And to have facilities for inspections, &c.

XV. Every Emigration Agent, and all persons in charge of or employed in any depôt, or in any vessel licensed to carry emigrants as hereinafter provided, shall give the Protector and the Medical Inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford them all such information as may be reasonably required by them.

IV.—RECRUITERS OF EMIGRANTS.

Protector of Emigrants to license Recruiters.

XVI. The Protector of Emigrants at each of the three ports aforesaid, and the British Consular Agent at each of the French ports in India, shall license so many fit persons as to him seems necessary, to be Recruiters of labourers,

and no person shall act or be employed as a Recruiter of labourers except under a license from a Protector of Emigrants or British Consular Agent.

Recruiter's license.

XVII. Every Recruiter shall be licensed to obtain labourers for some particular place to which emigration is lawful under this Act, and no license to obtain labourers for any place shall be granted except on the application of the Emigration Agent of such place.

Duration and cancelment of license.

XVIII. No license shall be in force for a longer period than one year; and in case of misconduct on the part of any Recruiter, the Protector of Emigrants may cancel his license before the expiration of the period for which it was granted.

Form of license, and fee therefor.

XIX. Every license shall be in the form set forth in the second schedule hereto annexed.

For every license there shall be paid to the Protector a fee of fifteen rupees.

Recruiter to wear badge.

XX. Every person holding a license as a Recruiter of labourers shall wear a badge bearing the following inscription in English and in the vernacular language of the Town, District or Districts in which he is licensed to engage labourers:—"Recruiter of Emigrants for the Mauritius" *(or other place, as the case may be).*

Countersignature of Recruiter's license.

XXI. No Recruiter shall engage or attempt to engage labourers in any District or in the towns of Calcutta, Madras or Bombay, without having first exhibited his license to the Magistrate of such District, or a Magistrate of such Town, and obtained the countersignature of such Magistrate thereupon.

Such countersignature shall be given, provided that the license is in force at the time.

V.—CONTRACTS WITH EMIGRANTS.

Contract for labour out of India unlawful, except under this Act.

XXII. Except under and in conformity with the provisions of this Act, it shall not be lawful to make any contract with any Native of India for labour to be performed in any place beyond British India, or to enable any

Native of India to emigrate, or to assist any Native of India in emigrating:

provided that nothing in this Act shall apply—

to any contract with any Native of India for labour to be performed in any Foreign Settlement on the mainland of India or in any Native State in India;

to emigration to any such Settlement or State;

to any contract for labour to be performed in, or to emigration to, the Island of Ceylon; or

to any contract with or the emigration of any Native seaman or other person who of his own free will contracts to navigate or serve on board of any vessel or who embarks on board such vessel in pursuance of such contract, or any person who contracts to serve as a menial servant only and who embarks as such menial servant.

Places for emigration to which contracts may be made with Natives.

XXIII. Contracts may be made with Natives of India to emigrate—

to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles;

to any of the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana,

and to the Danish Colony of St. Croix;

and it shall be lawful to enable or assist any Native of India to emigrate to any such Colony.

Power to legalize emigration to other places.

XXIV. The Governor General in Council may, from time to time, by notification published in the *Gazette of India*, declare that emigration of Natives of India shall be lawful to any place other than the places mentioned in Section 23:

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Provided that every such notification contain also a declaration, that the Governor General in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of Natives of India emigrating to such place.

Contracts may be made for emigration to such other places.

XXV. From the date of any such notification, contracts may be made with any Native of India for labour to be performed in any place to which emigration is authorized in the notification, and it shall be lawful to enable or assist any Native of India to emigrate to such place;

but all contracts and emigration under such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

XXVI. Emigration shall not be lawul except from the port of Calcutta, the port of Madras or the port of Bombay.

VI.—Registration of Emigrants.

Natives engaging to emigrate to appear before Magistrate.

XXVII. Every Native of India, who in any place other than the towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, before leaving the District within which the engagement was entered into, appear with the Recruiter

before a Magistrate, and no Recruiter shall remove such emigrant from the said District until he has so appeared.

Examination and registration.

Upon so appearing, the Magistrate shall examine the intending emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Magistrate shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(*a*) the name, name of the father, and the age, of such emigrant,

(*b*) the name of the village or place of which such emigrant is a resident,

(*c*) the Emigration depôt to which it is intended he shall proceed, and

(*d*) the rate of wages and period of service, if any, agreed upon between the emigrant and the Recruiter.

If the Magistrate thinks that the intending emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section, written on substantial paper which shall not require a stamp, shall be furnished by the Magistrate to the emigrant registered.

Copy of registration to be sent to Emigration Agent and Protector.

XXVIII. Authentic copies of every such registration shall be forthwith forwarded by the Magistrate to the Emigration Agent at the depôt to which the person named therein has been engaged to proceed, and to the Protector of Emigrants at the intended port of embarkation.

Registration of emigrants recruited in presidency towns.

XXIX. Every Native of India, who in the towns of Calcutta, Madras or Bombay, enters into any engagement with a Recruiter to emigrate, shall, within forty-eight hours of making such engagement, appear with the Recruiter before the Protector of Emigrants in such town; and no Recruiter shall remove such emigrant from the said town, or to any Emigration depôt, until he has so appeared.

Upon his so appearing, the Protector of Emigants shall examine the intending emigrant with reference to his engagement; and if it appears that he understands the nature of the engagement he has entered into, and that he is willing to fulfil the same, the Protector of Emigrants shall register in a book to be kept for the purpose, in such form as the Local Government prescribes,

(*a*) the name, the name of the father, and the age, of such emigrant,

(*b*) the name of the village or place of which such emigrant is a resident,

(*c*) the Emigration depôt to which it is intended he shall proceed, and

(*d*) the rate of wages and period of service, if any, agreed upon between the emigrant and the Recruiter.

If the Protector of Emigrants thinks that the intending emigrant does not understand the nature of the engagement, or has been induced to enter into the engagement by fraud or misrepresentation, he shall refuse to register his name.

A copy of every registration under this section, written on substantial paper which shall not require a stamp, shall be furnished by the Protector to the emigrant registered.

Copy of registration by Protector to be forwarded to Agent.

XXX. An authentic copy of every such registration shall be forthwith forwarded by the Protector to the Emigration Agent of the place for which the person named therein has been engaged.

Fee for registration.

XXXI. For the registration of every emigrant under Section 27 or Section 29, the Recruiter shall pay to the Magistrate or the Protector of Emigrants, as the case may be, a fee of one rupee and eight annas.

On proof of the desertion of any emigrant before embarkation, the fee paid in respect of such emigrant may be refunded by the Magistrate or the Protector to the Recruiter by whom it was paid, under such rules as are from time to time made in that behalf by the Governor General in Council.

VII.—Conveyance of Emigrants to Depots.

Conveyance of emigrant to depôt.

XXXII. (1). Every emigrant recruited under the provisions of this Act shall be conveyed by land or river with all convenient despatch to the depôt, at the port of embarkation, established by the Emigration Agent of the place to which such emigrant has contracted to emigrate.

Emigrants to be accompanied by Recruiter.

(2). The registered emigrants engaged by any Recruiter shall, while proceeding to a depôt, be accompanied throughout the journey either by the Recruiter himself or by a competent person appointed by him with the approval of the Magistrate by whom the emigrants have been registered. The Magistrate shall give to the person so appointed a certificate under his signature, stating that he has been appointed for the journey to the depôt.

Recruiter to provide suitable food and lodging.

(3). Every Recruiter by or through whom emigrants may be forwarded to a depôt shall, throughout their journey, provide them with suitable lodging and food.

VIII.—Arrival at Depots and Procedure thereon.

Arrival at depôt to be reported.

XXXIII. The arrival of each emigrant at a depôt shall immediately be reported by the person in charge of the depôt to the Emigration Agent, and by such Agent to the Protector of Emigrants.

Copy of registration to be shown to Medical Inspector.

Emigrants to be inspected by him.

XXXIV. The copy of the registration of every emigrant, received by the Emigration Agent from the Magistrate or from the Protector of Emigrants, shall, as soon as conveniently may be after the arrival of the emigrant, be shewn to the Medical Inspector of Emigrants; and the emigrant shall be examined by the Medical Inspector to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed.

The Medical Inspector, if satisfied of his fitness, shall give a certificate thereof to the Emigration Agent: if satisfied of his unfitness, he shall give a certificate thereof to the Protector of Emigrants.

When emigrant to be sent back to place of registration.

XXXV. If the Medical Inspector certifies that any emigrant is not in a fit state of health to emigrate to the place to which he has contracted to proceed, or if any irregularity has occurred in the recruitment of any emigrant,

the Protector of Emigrants may order the Emigration Agent in whose depôt such emigrant may be, forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the emigrant to return to the place where he was registered, and the Protector may take any steps he thinks necessary for the conveyance of the emigrant to such place.

Failure of Emigration Agent to pay sum required to enable emigrant to return.

XXXVI. On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any such sum, the Protector may pay the same to or on behalf of the emigrant.

Every sum so disbursed shall be recoverable by the Protector, with six per cent. interest from the date of disbursement, from the Emigration Agent on whose default it is paid, as money paid to the use of such Emigration Agent.

No further proof shall be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay such money, and that the Emigration Agent for a space of twenty-four hours made default in complying therewith.

Provided that every emigrant who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the journey back to the place where he was registered, shall, in addition to his being conveyed back at the expense of the Emigration Agent, be entitled to continue in the depôt and to be fed, clothed, lodged and attended to there, by and at the expense of the Emigration Agent, until such time as the Protector otherwise orders.

Duty of Emigration Agent.

XXXVII. The Emigration Agent, in the presence of the Protector of Emigrants and within forty-eight hours after the arrival of each emigrant at the depôt, shall ascertain by personal communication with such emigrant whether or not he has been properly fed and otherwise properly treated on his journey to the depôt.

The Emigration Agent shall also, in the presence of the Protector and within such time as aforesaid, examine the copy of the registration furnished to the emigrant under Section 27 or Section 29. If for any reason further enquiry be necessary, such enquiry shall be made forthwith.

Unless the Emigration Agent, with the consent of the Protector, refuses to recognize or to be bound by the contract entered into by the Recruiter with the emigrant, as shown by the copy of the registration produced by the emigrant, such copy, if it be a copy furnished under Section 27, shall be countersigned by both the Emigration Agent and the Protector, and if it be a copy furnished under Section 29 shall be countersigned by the Emigration Agent alone. The copy so countersigned, under whichever section it may have been furnished, shall be delivered back to the emigrant.

If the Emigration Agent, without the consent of the Protector,

Refusal of Agent, without consent of Protector, to be bound by contract made by Recruiter.

refuses to be bound by the contract entered into by the Recruiter with the emigrant, the Protector may thereupon order the Emigration Agent forthwith to pay to him, the Protector of Emigrants, such reasonable sum as is necessary to enable the emigrant to return to the place where he was registered. On failure of the Emigration Agent to pay such sum within twenty-four hours of his being ordered so to do, the Protector may pay the same to or on behalf of the emigrant. All the provisions of Section 36 as to sums paid by the Protector shall apply, so far as the circumstances of the case permit, to sums paid by him under this section.

Suits against Emigration Agent.

The Protector shall also, in every case in which it seems to him proper to do so, institute a suit on behalf of the emigrant against the Emigration Agent, for the recovery of damages for the breach of contract committed by the Emigration Agent.

In every such suit, the contract entered into by the Recruiter shall be deemed to have been entered into by and to be binding on the Emigration Agent.

After examination and Medical Inspector's certificate, Emigration Agent to grant a pass.

XXXVIII. After the examination mentioned in Section 37, and if the Medical Inspector has given a certificate of the fitness of the emigrant to emigrate, the Emigration Agent shall deliver to the emigrant a pass, countersigned by the Protector of Emigrants as hereinafter provided, stating the name and the age of the emigrant and the name of his father, and certifying that he is in a fit state of health to emigrate to the place to which he has contracted to go.

Protectors of Emigrants to attend personally at examination and passing.

XXXIX. The Protector of Emigrants shall attend personally at the examination and passing of emigrants by the Emigration Agent under Sections 37 and 38, and shall see that the Emigration Agent makes all such enquiries of the emigrants as it may be his duty to make.

And to countersign pass.

If such Protector is satisfied with such enquiries, but not otherwise, he shall countersign the pass delivered by the Emigration Agent.

IX.—Emigrant Vessels.

Emigrant not to be received on board unlicensed vessel.

XL. (1). It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in such vessel has been obtained from the Local Government. The granting or withholding any such license shall be in the discretion of the Local Government.

Application for license.

(2). The Master or owner of any vessel who desires to obtain a license to carry emigrants in such vessel, shall apply in writing through the Protector of Emigrants to the Local Government for such license.

Contents of license.

(3). Every such application shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

Survey of vessel.

(4). The Protector for Emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature

of her accommodation for emigrants, and to ascertain that she is properly ventilated and is supplied with all the tackle requisite for her voyage.

Report after survey, and certificate to Master.

(5). The Protector of Emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the Master of the vessel.

Bond to be executed by Master.

(6). In consideration of his obtaining a license to carry emigrants, the Master of every vessel intended to carry emigrants shall, upon the requisition of the Protector of Emigrants and before any emigrant embarks on board of such vessel, execute in duplicate a bond, in such form as the Local Government prescribes, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions in this Act provided. The Protector of Emigrants shall require the Master to execute such bond as aforesaid in duplicate, and shall forward one copy of it to the Government of the place to which the emigrants are to be carried (or in the case of a French colony to the British Consular Agent at such colony) and the other copy of it to the Local Government.

Space and accommodation required on board.

XLI. (1). No certificate under Section 40 shall be granted, unless there be provided for the emigrants, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

(2). No compartment shall take more than one adult emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who has completed two and has not completed ten years of age for every eight superficial feet on deck.

(3). A distinct and separate place shall be fitted up for a hospital in every emigrant vessel.

(4). Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

(5). An emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.

Provision, fuel and water.

XLII. (1). There shall be actually laden and on board of every vessel carrying emigrants, at the time of the departure of such vessel from the port at which they embark,

(*a*) good and wholesome provisions for the use and consumption of the said emigrants (over and above the victualling of the Captain, officers and crew, and of the cabin and other passengers, if any) in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor General in Council under Section 56.

(*b*) fuel for cooking such provisions, and

(*c*) a supply of water, to the amount of seven gallons for every week of the probable length of the voyage for every emigrant on board such vessel. Such water shall be carried in tanks to be approved by the Protector of Emigrants.

(2). Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native Surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by rules made under Section 56.

Surgeon, medicines and stores.

(3). When any vessel is destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks, a supply of water at the rate hereinbefore mentioned, for every week of the probable length of the voyage to such port or place, shall be deemed to be a compliance with this section.

Supply of water for vessel calling at intermediate port.

The probable length of the voyage to such port or place shall be determined from time to time by the Protector of Emigrants, subject to the approval of the Local Government.

(4). When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the Protector of Emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this section.

Supply in vessel fitted with distilling apparatus.

(5). The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of this section are complied with.

Protector and Inspector of Emigrants to ensure compliance with above provisions.

XLIII. Before any vessel carrying emigrants clears out for any place westward of the Cape of Good Hope, between the first day of March and the fifteenth day of September, the Protector of Emigrants shall personally see that every emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage.

Supply of extra clothing.

Every emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the tropics.

XLIV. Before any vessel licensed to carry emigrants shall be cleared out from the port of Calcutta, Madras or Bombay, the Master of such vessel shall obtain from the Protector of Emigrants at the port of clearance, and from the Emigration Agent for the place to which the emigrants are intended to proceed, certificates, under the hands of such Protector and Emigration Agent respectively, to the effect following, that is to say:—that such Protector and Emigration Agent have, in respect of the emigrants proceeding in such vessel, done all that is hereinbefore required to be done on the part of such Protector and Emigration Agent respectively; and that all the directions herein contained for ensuring the health, comfort and safety of the emigrants have been duly complied with, as well as all such rules as the Governor General in Council from time to time frames under Section 56.

Certificates from Protector of Emigrants and from Emigration Agent.

X.—Embarkation.

XLV. If any emigrant without sufficient cause refuses or neglects to embark when called upon by the Emigration Agent so to do, it shall not be lawful to compel such emigrant to embark or to put him on board-ship against his will, or to

Emigrants refusing to embark.

Proviso.

detain him against his will at the depôt or elsewhere: but nothing in this section shall diminish or affect the civil or criminal liabilities which such emigrant incurs by reason or in respect of his refusal or neglect, aforesaid.

Every case in which an emigrant is charged before a Magistrate of Police in a presidency town with refusing or neglecting to embark without sufficient cause, shall be heard and dertermined by such Magistrate in a summary manner, and every such emigrant shall, on conviction, be punished in the manner provided in Section 492 of the Indian Penal Code for the punishment of offences under that section.

Time of sailing for places East of Cape of Good Hope.

XLVI. Emigrants may leave India for any place East of the Cape of Good Hope to which emigration is lawful under this Act, at all times of the year.

For other places.

For any such place West of the Cape of Good Hope, emigrants may leave only between the thirty-first day of July and the first day of March, unless they embark in vessels using steam-power, in which case they may leave at any time of the year.

Provided that, in cases of emergency, the Local Government may permit emigrants for any place West of the Cape of Good Hope to leave between the thirty-first day of July and the first day of April.

Emigrant unfit to undertake voyage.

XLVII. The Protector of Emigrants shall, from the report of the Medical Inspector and by personal communication with every emigrant before embarkation, ascertain that the emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease.

If the Protector of Emigrants is of opinion that any emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the Protector shall refuse to permit his embarkation, and the husband, wife, father, mother, or child of such emigrant may, notwithstanding anything herein contained, refuse to embark.

The Protector of Emigrants shall also, before the embarkation of any emigrant, ascertain that he has in his possession the copy of the registration provided under Section 27 or Section 29.

If it appear to the satisfaction of the Protector of Emigrants that any emigrant has lost such copy, the Protector may furnish such emigrant with another copy of such registration, to be made from the copy received by the Protector from the Magistrate under Section 27, or from the register kept by himself under Section 29, and shall thereupon allow such emigrant to embark.

Provisions of Act to be explained.

XLVIII. The Protector of Emigrants shall explain to all emigrants, prior to their embarkation, the substance of the provisions of this Act so far as they immediately affect such emigrants.

Procedure on embarkation.

XLIX. (1). When any emigrants are about to embark on any vessel, the Emigration Agent for the place to which they are intended to proceed shall furnish the Master of the vessel with five copies of a list, specifying, as accurately as may be, the names, ages and occupations, and the names of the fathers, of the emigrants about to embark on board such vessel.

Emigrant to give his pass to Master.

(2). On embarkation, every emigrant shall deliver to the Master of the vessel the pass granted to him under Section 38; and the Master shall not receive any emigrant on board unless he delivers up such pass. The Master shall compare the emigrants who embark and the passes delivered by them with the list furnished by the Emigration Agent, and if the list appear to be correct, and to correspond with the passes delivered and with the emigrants embarked, the Master shall sign the five copies of the list.

Protector to be personally present.

(3). The Protector of Emigrants shall be personally present at the embarkation of all emigrants, and shall see that the Master duly compares the list with the passes and emigrants, and he shall himself also compare the list with the passes and emigrants.

Examination by Medical Inspector.

(4). The Medical Inspector shall also be personally present at the embarkation of all emigrants and shall examine each emigrant to ascertain if he is in a fit state of health to emigrate to the place to which he has contracted to proceed; and the provisions of Sections 34, 35, and 36, shall apply, *mutatis mutandis*, to emigrants examined under this clause.

One copy of list of emigrants given to Protector, to be signed and returned to Master.

(5). When the copies of the list have been signed, the Master shall give two copies to the Protector of Emigrants, who shall sign such copies if he believes them to be correct, and shall return one copy to the Master of the vessel: the other copy shall be filed in the office of the Protector of Emigrants.

Emigrant without pass not to remain on board.

(6). The Protector of Emigrants shall not permit any emigrant to remain on board who has not a pass, or is not mentioned in the list aforesaid.

Pass to be returned to emigrant on arrival at place of destination.

(7). Every pass delivered up to the Master of a vessel under this section shall be returned by him to the emigrant by whom the same was delivered up, prior to such emigrant disembarking on the arrival of the vessel at her place of destination.

Copy of list of emigrants to be signed by Emigration Agent and returned to Master.

L. The Master of every vessel carrying emigrants shall, after the embarkation of the emigrants and before the departure of the vessel, give to the Emigration Agent at the port from which such vessel is cleared out two others of the five copies of the list of emigrants mentioned in Section 49, duly signed by the Master.

And by him to be delivered at place of destination.

The Emigration Agent shall thereupon sign such copies, and shall return to the Master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any emigrant, be delivered by the Master to the Protector of Emigrants, or other the proper officer, at such place.

Protector to send list of emigrants to Government of place to which they sail.

LI. The Protector of Emigrants shall, by every vessel which carries emigrants, send to the Protector of Emigrants or other the proper Government Authority at the place for which the emigrants embark, a correct and detailed list of all emigrants embarked in such vessel, compiled from the passes of the emigrants and from the list signed by the Master as aforesaid.

Vessel sailing from Calcutta to depart within twenty-four hours of embarkation.

LII. The Master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as shall have first embarked.

Vessels sailing from Calcutta to be towed to sea.

LIII. Every vessel sailing from the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.

Copies of Act and rules to be kept on board.

LIV. Two copies of this Act and of all rules made by the Governor General in Council under Section 56, and two copies of a translation of this Act and of such rules in such language or languages as the Local Government may direct, shall be delivered to the Master of every vessel carrying emigrants by the Emigration Agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

One of such copies or translations shall, upon request made at any reasonable time to the Master of the vessel, be produced to any emigrant or passenger for his perusal.

Taking emigrants for Seychelles to quarantine station of Mauritius.

LV. In case of sickness breaking out on board of any vessel conveying emigrants to Seychelles, such emigrants may be taken to the quarantine-station of Mauritius.

In such case the emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.

XI.—Supplementary Powers.

Power of the Governor General in Council to make rules.

LVI. The Governor General in Council may from time to time make rules consistent with this Act,—

(1). To regulate the proportion of women to be taken with emigrants, the proportion of children to be taken with adults, and the age below or above which children shall not be taken;

(2). To prescribe the description, quantity and quality of provisions to be taken by vessels carrying emigrants, the daily allowance of food and water to be issued to each emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the emigrants;

(3). To provide for the medical care of emigrants during their residence at the depôts and on their voyages;

(4). To prescribe the nature, quality and quantity of medical drugs and other stores to be carried on board such vessels;

(5). To provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

(6). To provide for a journal being kept, by the Surgeon of every such vessel, of the health of the emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

(7). And generally to provide for the security, well-being, and protection of emigrants.

All such rules shall be published in the *Gazette of India* and shall have effect as if they were contained in this Act.

Provided that, in cases of emergency, the Local Government may permit any vessel carrying emigrants to leave port although the proportion of women or children embarked on board such vessel is not in accordance with the said rules.

Power to prohibit emigration to any place to which emigration is allowed.

LVII. Whenever the Governor General in Council has reason to believe that in any place to which emigration is lawful under this Act, proper measures have not been taken for the protection of emigrants immediately upon their arrival in such place or during their residence therein, or for their safe return to India, or to provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage, the Governor General in Council may, by notification published in the *Gazette of India*, declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.

Emigration to place mentioned to be suspended.

LVIII. After any notification has been published under Section 57, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification: but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

During suspension, laws against emigration to be in force as to place specified.

LIX. During the time of such suspension any provision of this Act prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any Native of India out of the British territories in India, shall take effect so far as relates to the place specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.

Revocation of suspension.

LX. Whenever the Governor General in Council is satisfied that, in the place specified in any notification under Section 57, proper measures have been taken and will be adopted for the protection of emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return-passages to India for such emigrants at or about the time at which they are entitled to such return-passages, the Governor General in Council may notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification.

Thereupon all the provisions of this Act authorizing emigration to such place shall, from the day so specified, be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

Power to prohibit emigration.

LXI. Whenever the Governor General in Council or the Local Government has reason to believe that, in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India,

or to provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage,

the Governor General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Governor General in Council under this section may be cancelled by notification in the *Gazette of India.*

Any notification issued by the Local Government under this section may be cancelled by order of the Governor General in Council or by the Local Government.

Power to increase fees.

LXII. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, increase any fee payable under Sections 11, 19 and 31, and may also in like manner reduce to its present amount any fee so increased :

Provided that no fee shall be increased under this section by more than double such amount.

XII.—Special Provisions as to French Colonies.

Nomination of Agents for presidency towns.

Proviso.

LXIII. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras and Bombay : Provided that such person, before entering on the duties of his office under this Act, has been approved by Her Majesty.

Powers of Agents.

LXIV. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native labourers for all or any of the French Colonies aforesaid.

Operations of recruitment.

LXV. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native labourers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and the advantages afforded to the Emigration Agents for British Colonies.

Protector of Emigrants.

LXVI. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of Labourers emigrating under the provisions of this Part of this Act.

In French Ports in India the duty imposed on the British Consular Agents by Article V. of the Convention printed in the third Schedule hereto annexed shall be performed under such instructions as may be given by the Governor General in Council in this behalf.

Contracts of service, with certain exceptions to be made in India. Effect of contract

LXVII. All contracts of service made with labourers emigrating to French Colonies under this Act, except the contracts mentioned in clause 4 of Article IX and clause 2 of Article X of the said Convention, shall be made in India, and shall bind the emigrant either to serve a person designated by name, or to serve a person to whom

he is allotted by the proper authority on his arrival in the Colony to which he emigrates.

Matters to be provided for in contract.

LXVIII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

(1). The duration of the engagement at the expiration of which the emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which he may abandon or renounce his right to a free return-passage.

(2). The number of days and hours of work.

(3). The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the emigrant.

(4). Gratuitous medical treatment for the emigrant, except in cases where, in the opinion of the proper Government officer, his illness has arisen from his own misconduct.

(5). In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the said Convention.

Power to extend Act to French Colonies not expressly named.

LXIX. The Governor General in Council may, by order to be published in the *Gazette of India*, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the said Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony.

Such declaration shall have the same effect as if it formed part of this section.

Vessel to carry European Surgeon and Interpreter.

LXX. Every emigrant vessel sailing to a French Colony shall carry an Europeon Surgeon and an Interpreter.

XIII.—Penalties.

For making unlawful contract of labour.

LXXI. Whoever, except under and in conformity with the provisions of this Act, makes any contract with any Native of India for labour to be performed in any place beyond British India to which emigration is not authorized under this Act, shall be deemed to have committed the offence specified in Section 363 of the Indian Penal Code;

And whoever knowingly enables or assists any Native of India to emigrate to any such place, or aids in or abets the emigration of any Native of India to any such place, shall be deemed to have abetted the commission of that offence.

For recruiting without being licensed.

LXXII. Whoever, not being a Recruiter duly licensed under this Act, acts or is employed as a Recruiter of labourers, or, contrary to the provisions of this Act, enters into any contract with a Native of India for labour to be performed by such Native in any place beyond British India, shall be liable to a fine not exceeding 500 rupees.

For Recruiter failing to take engaged emigrants before Magistrate or Protector.

LXXIII. Whoever, being a duly licensed Recruiter, removes any emigrant whom he may engage in any district or place other than the towns of Calcutta, Madras or Bombay, from such district or place, without such emigrant having appeared along with the Recruiter

before a Magistrate in order that the emigrant might be examined and registered;

and whoever removes any emigrant whom he may engage in any one of the towns in Calcutta, Madras or Bombay, from such town, or to an emigration depôt, without such emigrant having appeared with the Recruiter before the Protector of Emigrants in order that the emigrant might be examined and registered;

For fraudulently inducing labourer to contract.

and whoever by means of intoxication, violence, fraud, or false pretences induces any Native of India to enter into a contract for labour to be performed by him in any place to which emigration is lawful under this Act, or to proceed to any such place without having entered into any contract;

For not supplying proper food.

and whoever fails to supply any emigrant whom he has engaged, and who is registered, with suitable food, or otherwise ill-treats such emigrant on his journey to the depôt;

For not taking emigrant to depôt.

and whoever forwards, sends or conveys any such emigrant otherwise than is provided in Section 32, or to any house or place in or near the towns of Calcutta, Madras or Bombay, respectively, other than the depôt for the emigrants for the place at which such emigrant has contracted to labour,

shall be liable to a fine not exceeding 500 rupees.

For forwarding emigrants or allowing them to go, without being duly registered.

LXXIV. Whoever, being a duly licensed Recruiter, forwards or sends any emigrant for the district or town in which he has entered into an engagement, to any emigration depôt, without such emigrant having been duly registered in accordance with the provisions of Sections 27 and 29;

and whoever, being a duly licensed Recruiter, induces or knowingly permits any such emigrant to leave such district or town, or to proceed to any emigration depôt, for the purpose of emigrating to any place, without the emigrant being duly registered as aforesaid,

shall be liable to a fine not exceeding 500 rupees.

For false representation of Government authority.

LXXV. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure labourers to proceed to any place beyond British India, or falsely represents that such labourers are required by the Goverment or are to be engaged on behalf of Government, shall be liable to a fine not exceeding 500 rupees.

For receiving emigrants in unlicensed vessel.

LXXVI. The Master of any vessel which has not been licensed as provided in Section 40, knowingly receiving any emigrant on board in order to convey such emigrant to any place contrary to the provisions of this Act, shall be liable to imprisonment for a period not exceeding one year, and also to a fine not exceeding 1,000 rupees for every such emigrant received on board, and the vessel shall be liable to be forfeited.

For clearing ship without complying with rules.

LXXVII. If the Master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any emigrant without having fully complied with every particular required in Sections 41 and 42, he shall be liable to a fine not exceeding 200 rupees for every emigrant so taken on board.

For taking on board after clearance emigrants not entered in list.

LXXVIII. If the Master of any vessel, after having cleared such vessel for any place to which emigration is lawful under this Act, takes on board any emigrant without such emigrant having been duly entered in the lists mentioned in Sections 49 and 50, and in the manner in those sections prescribed, he shall be liable to a fine not exceeding 200 rupees for every emigrant so taken on board.

For fraudulent acts whereby certificate becomes inapplicable to vessel.

LXXIX. If after having obtained a certificate in accordance with the provisions of Section 40 the Master of any vessel cleared for any place to which emigration is lawful under this Act, fraudulently does, or suffers to be done, any act or thing whereby such certificate becomes inapplicable to the altered state of the vessel or other matter to which such certificate relates, he shall be liable to a fine not exceeding 5,000 rupees,

and he may also be sued on any bond which he may have executed in consideration of any license obtained for the vessel as originally prescribed.

For proceeding to sea without steam.

LXXX. If the Master of a vessel sailing from the port of Calcutta, licensed under Section 40 and sailing with emigrants on board, without reasonable excuse causes or allows his vessel to proceed from Garden Reach to sea, or to proceed any part of the distance between Garden Reach and sea, without his vessel being under tow of a competent steamer,

or if such vessel has not left Garden Reach and proceeded on her voyage within the time prescribed in Section 52,

the Master of such vessel shall be liable to a fine not exceeding 1,000 rupees.

Customs officers may search and detain for purposes of this Act.

LXXXI. All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of emigrants on board vessels bound for any place to which emigration is lawful under this Act, and of other offences against this Act.

Prosecutions under this Act where and how instituted.

LXXXII. All prosecutions under this Act shall be instituted on information laid at the instance of an Emigration Agent, or of a Protector of Emigrants, or of an officer appointed for the purpose by the Local Government, before a Magistrate of Police, or before a Magistrate, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the towns of Calcutta, Madras and Bombay.

Mode of recovering fines.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the said towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

XIV.—Miscellaneous.

Probable length of voyages to places mentioned in Section 23.

LXXXIII. The probable length of the voyages to the places mentioned in Section 23, from Calcutta, Madras or Bombay, respectively, shall, for the purposes of this Act, and in the case of sailing vessels, be deemed to be as follows:—

FROM CALCUTTA:	
To Mauritius, Seychelles and Réunion	Between the months of April and October inclusive, ten weeks; and between the months of November and March inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies	Twenty weeks.
To French Guiana ...	Twenty-six weeks.
To Natal ...	Twelve weeks.
FROM MADRAS:	
To Mauritius, Seychelles and Réunion ...	Between the months of April and October inclusive, seven weeks; and between the months of November and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	Nineteen weeks.
To Natal ...	Ten weeks.
FROM BOMBAY:—	
To Mauritius, Seychelles and Réunion ...	Betweeen the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana	Nineteen weeks.
To Natal ...	Ten weeks.

In the case of vessels propelled either wholly or in part by steam, the Local Government may, by notification in the official Gazette, fix, for the purposes of this Act, the probable length of the voyages aforesaid.

Notification legalizing emigration to new place to give probable length of voyages thither.

LXXXIV. Every notification under Section 24 shall state the probable length of the voyages from Calcutta, Madras and Bombay, respectively, to every place to which emigration is thereby authorized, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.

Exercise of powers of Magistrate of the District under this Act.

LXXXV. The Local Government may from time to time authorize any person invested with the powers of a Magistrate, as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and confered on the Magistrate of the District.

Every person so authorized shall, in all respects for the purposes of this Act, be deemed to be included in the words "the Magistrate."

Act and rules made under it not to apply to certain vessels.

LXXXVI. Nothing in this Act or in any rule to be made by the Governor General in Council under Section 61 shall apply to any vessel in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels.

THE FIRST SCHEDULE.

(*See Section* 2).

Number and year.	Title.
XLVI of 1860 ...	To authorize and regulate the Emigration of Native Labourers to the French Colonies.
VII of 1862 ...	To amend Act XLVI of 1860 (to authorize and regulate the Emigration of Native Labourers to the French Colonies).
XIII of 1864 ...	To consolidate and amend the laws relating to the Emigration of Native Labourers.
VI of 1869 ...	To amend the law relating to the Emigration of Native Labourers.
VI of 1870 ...	To enable the Governor General in Council to increase the fee payable under Section 31 of the Emigration Act.

THE SECOND SCHEDULE.

(*See Section* 19).

Office of the Protector of Emigrants at the Port of

A B is hereby licensed under the Indian Emigration Act, 1871, to be a Recruiter for engaging persons to proceed to

for the purpose of labouring for hire.

This license will be in force for one year only from this date.

Dated the day of

(*Signed*) *C. D.*,

Protector of Emigrants.

THE THIRD SCHEDULE.

(*See Sections* 66, 67 *and* 68).

Convention between Her Majesty and the Emperor of the French relative to the Emigration of labourers from India to the French Colonies, with an additional Article thereto annexed.

Signed at Paris, July 1861.

[*Ratifications exchanged at Paris, July* 30*th*, 1861.]

His Majesty the Emporor of the French having made known, by a declaration dated this day (1st July 1861), his resolution to put an end to the recruitment upon the coast of Africa of negro labourers by means of redemption; and Her Majesty the Queen of the United Kingdom of Great Britian and Ireland desiring, in consequence, to facilitate the immigration of free labourers into the French Colonies, their said Majesties have resolved to conclude a Convention destined to regulate the recruitment of such labourers in the British territories in India. For this purpose they have named as their Plenipotentiaries :—

Her Majesty the Queen of the United Kingdom of Great Britian and Ireland, the Most Honourable Henry Richard Charles, Earl Cowley, Her Majesty's Ambassador Extraordinary and Plenipotentiary to the Emperor of the French;

And His Majesty the Emperor of the French, M. Edouard Antoine Thouvenel, Senator, His Minister and Secretary of State for the Department of Foreign Affairs;

Who, after having communicated to each other their respective full powers, found in due form, have agreed upon the following Articles:—

ARTICLE I.

The French Government shall be at liberty to recruit and engage labourers for the French Colonies in the Indian Territories belonging to Great Britain, and embark emigrants being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall entrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of labourers for British Colonies.

ARTICLE IV.

The French Agent shall with regard to the operatians of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the Recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself, either that the emigrant is not a British [subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX, and by Section 2 of Article X, shall be made in India, and shall either bind the emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for:—

1. The duration of the engagement, at the expiration of which the emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the emigrant.

4. Gratuitous medical treatment for the emigrant, except in cases where, in the opinion of the proper Government officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX and XXI of the present Convention.

ARTICLE IX.

1. The duration of the immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consent to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

The immigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the labourer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the emigrants shall be comformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every emigrant ship, deliver to the British Consular Agent a nominal list of the emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such cases, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the ports of embarkation, the emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the depôts, or other place in which they may be lodged, in order to communicate with the British

Agents, who, on their part, may at any reasonable hour visit the places in which the emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the first of August to the fifteenth of March. This arrangement applies only to sailing vessels; vessels using steam-power may leave at any time of the year.

Every emigrant sailing from India for the Antilles, between the first of March and the fifteenth of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the port of embarkation for the British Consular Agent at the port of destination, and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for conveyance of emigrants, subjects of Her Britannic Majesty, the emigrants shall occupy, either between decks, or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all labourers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the emigrants before their distribution in the Colony.

A copy of the "List of Distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All immigrants, being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the labourer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of labourers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No labourer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labour regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labour more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Réunion, Martinique, Gaudeloupe and it dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which the British Consular Agent shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

The present Convention shall begin to take effect on the first of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

Nevertheless the Governor General of British India in Council shall, in conformity with the Act of the 19th of September 1856, relative to immigration to British Colonies, have the power to suspend at any time emigration to any one or more of French Colonies, in the event of his having reason to believe that in any such Colony proper measures have not been taken for the protection of the emigrants immediately upon their arrival or during their residence therein, or for their safe returned to India, or to provide a return-passage to India for any such emigrant at or about the time at which they are entitled to such return-passage.

In case, however, the power thus reserved to the Governor General of British India should at any time be exercised, the French Government shall have the right immediately to terminate the whole Convention, if they should think proper to do so.

But in the event of the determination of the present Convention, from whatever cause, the stipulations relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favour of the said Indian subjects, until they shall either have been sent back to their own country, or have renounced their right to a return-passage to India.

ARTICLE XXVII.

The present Convention shall be ratified, and the ratifications shall be exchanged at Paris in four weeks, or sooner if possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereto the seals of their arms.

Done at Paris, the first day of July in the year of our Lord one thousand eight hundred and sixty-one.

(L. S.) COWLEY.
(L. S.) . THOUVENEL.

ADDITIONAL ARTICLE.

His Majesty the Emperor of the French having stated that, in consequence of the order which he gave long ago that no more African emigrants should be introduced into the Island of Réunion, that Colony has, since last year, had to obtains labourers from India and Chinia; and Her Britannic Majesty having, by a Convention signed on the 25th of July 1860, between Her Majesty and His Majesty the Emperor of the French, authorized the Colony of Réunion to recruit six thousand labourers in Her Indian possessions, it is agreed that the Convention of this date shall take effect forthwith with regard to the said Colony of Réunion.

The present Additional Article shall have the same force and validity as if it were inserted, word for word, in the Convention signed this day. It shall be ratified, and the ratifications shall be exchanged at the same time as those of the Convention.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Paris, the 1st of July 1861.

(L. S.) COWLEY.
(L. S.) . THOUVENEL.

ACT No. VIII OF 1871.

THE INDIAN REGISTRATION ACT, 1871.

1. Short title. Local extent. Commencement.
2. Repeal of enactments.
3. Interpretation-clause.
4. Inspector General of Registration. Branch Inspector General of Sindh.
5. Districts and Sub-Districts.
6. Registrars and Sub-Registrars.
7. Offices of Registrars and Sub-Registrars.
8. Inspectors of Registration Offices.
9. Military Cantonments may be declared Sub-Districts or Districts.
10. Absence of a Registrar from his District or vacancy in his office.
11. Absence of Registrar on duty in his District.
12. Absence of Sub-Registrar or vacancy in his office.
13. Appointments under Sections 10, 11, or 12 to be reported to Government. Suspension, removal and dismissal of Registering Officers.
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84. Registering Officer not liable for thing *bonâ fide* done or refused in his official capacity.
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87. Exemption of certain documents executed by or in favor of Government.
88. Inspection and copies of such documents.
89. Recognition, in Oudh and Burmah, for three months of powers of attorney not executed according to Section 33.
90. Burmese registration rules confirmed.
91. FIRST SCHEDULE. Enactments repealed.
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An Act for the Registration of Documents.

Preamble.

Whereas it is expedient to consolidate and amend the laws relating to the registration of documents; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

I. This Act may be called "The Indian Registration Act, 1871:"

Local extent.

It extends to the whole of British India, except such districts or tracts of country as the Local Government may from time to time, with the previous sanction of the Governor General in Council, exclude from its operation;

Commencement.

And it shall come into force on the first day of July 1871.

Repeal of enactments.

II. On and from that day the enactments mentioned or referred to in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

But all appointments, notifications, rules and orders made, and all offices established, under any of the said enactments shall be deemed to have been, respectively, made and established under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of July 1871, to any enactment hereby repealed, shall be read as if made to the corresponding section of this Act.

And nothing herein contained affects Act No. XX of 1866, so far as relates to the procedure upon any agreement recorded under Section 52 of that Act at any time before that day, or the procedure provided by that Act for the registration and deposit of authorities to adopt executed before the first day of January 1872.

And so far as regards suits instituted before the first day of April 1873, nothing herein contained affects Act No. XIV of 1859, Section 1 clause 10, as amended by Act No. XX of 1866, Section 27.

Interpretation clause.

III. In this Act, unless there be something repugnant in the subject or context—

"Lease."

"Lease" includes a counterpart, a kabúliyát, an undertaking to cultivate or occupy, and an agreement to lease:

"Signature." "Signed."

"Signature" and "signed" include and apply to the affixing of a mark:

"Immoveable property" includes land, buildings, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops, nor grass:

"Immoveable property."

"Moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property:

"Moveable property."

"Book" includes a portion of a Book and also any number of sheets connected together with a view of forming a Book or portion of a Book:

"Book."

"Endorsement" and "endorsed" include and apply to an entry in writing by a Registering Officer on a rider or covering slip to any document tendered for registration under this Act.

"Endorsement." *"Endorsed."*

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority:

"Minor."

"Representative" includes the guardian of a minor and the Committee or other legal curator of a lunatic or idiot:

"Representative."

"Addition" means the place of residence, and the profession, trade, rank, and title (if any) of a person described, and, in the case of a Native, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name:

"Addition."

"District Court" includes the High Court in its ordinary original civil jurisdiction; and

"District Court."

"District" and "Sub-District" respectively mean a District and Sub-District formed under this Act.

"District" "Sub-District."

PART II.

Of the Registration Establishment.

IV. The Local Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government,

Inspector General.

or may, insteatd of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits, as the Local Government from time to time appoints in this behalf.

The Governor of Bombay in Council may also, with the previous consent of the Governor General in Council, appoint an officer to be Branch Inspector General of Sindh, who shall have all the powers of an Inspector General under this Act other than the power to frame rules hereinafter conferred.

Branch Inspector General of Sindh.

Any Inspector General or the Branch Inspector General of Sindh may hold simultaneously any other office under Government.

V. For the purposes of this Act, the Local Government shall form Districts and Sub-Districts, and shall prescribe, and may from time to time alter, the limits of such Districts and Sub-Districts.

Districts and Sub-Districts.

The Districts and Sub-Districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

Registrars and Sub-Registrars.

VI. The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be Registrars of the several Districts, and to be Sub-Registrars of the several Sub-Districts, formed as aforesaid, respectively.

Offices of Registrar and Sub-Registrar.

VII. The Local Government shall establish in every District an office to be styled the office of the Registrar and in every Sub-District an office to be styled the Office of the Sub-Registrar,

and may amalgamate with any Office of a Registrar any Office of a Sub-Registrar.

Inspectors of Registration Offices.

VIII. The Local Government may also appoint officers to be called Inspectors of Registration Offices, and may from time to time prescribe the duties of such officers. Every such Inspector shall be subordinate to the Inspector General.

Military Cantonments may be declared Sub-Districts or Districts.

IX. Every Military Cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be, for the purposes of this Act, a Sub-District or a District, and such Magistrate shall be the Sub-Registrar or the Registrar, of such Sub-District or District, as the case may be,

Whenever the Governor General in Council declares any Military Cantonment beyond the limits of British India to be a Sub-District or a District for the purposes of this Act, he shall also declare, in the case of a Sub-District, what authorities shall be Registrar of the District and Inspector General, and in the case of a District, what authority shall be Inspector General, with reference to such Cantonment and the Sub-Registrar or Registrar thereof.

Absence of a Registrar from his District or vacancy in his office.

X. Whenever any Registrar other than the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situate,

shall be the Registrar during such absence or until the Local Government fills up the vacancy.

Whenever the Registrar of a District including a Presidency Town, is absent otherwise than on duty in his District, or when his office is temporarily vacant,

any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the Local Government fills up the vacancy.

Absence of Registrar on duty in his District.

XI. Whenever any Registrar is absent from his office on duty in his District, he may appoint any Sub-Registrar or other person in his District to perform, during such absence, all the duties of a Registrar, except those mentioned in Sections 68 and 72.

Absence of Sub-Registrar or vacancy in his office.

XII. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant,

any person whom the Registrar of the District appoints in this behalf shall be Sub-Registrar during such absence, or until the Local Government fills up the vacancy.

Appointments under Sections 10, 11 or 12 to be reported to Government.

XIII. All appointments made under Section 10, Section 11, or Section 12 shall be reported to the Local Government by the Inspector General. Such reports hall be either special or general, as the Local Government directs.

Suspension, removal and dismissal of Registering Officers.

The Local Government may suspend, remove or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

Remuneration and establishments of Registering Officers.

XIV. Subject to the approval of the Governor General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the Registering Officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

The Local Government may allow proper establishments for the several Offices under this Act.

Seals of Registering Officers.

XV. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs :—" The seal of the Registrar (*or* of the Sub-Registrar) of "

Register-Books.

XVI. The Local Government shall provide for the office of every Registering Officer the books necessary for the purposes of this Act.

Forms.

The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Fire-proof boxes.

The Local Government shall supply the office of every Registrar with a fire-proof box, and shall in each District make suitable provision for the safe custody of the records connected with the registration of documents in such District.

PART III.

Of Registrable Documents.

Documents of which registration is compulsory.

XVII. The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a District in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or Act No. XX of 1866, or this Act came or comes into force (that is to say),—

(1). Instruments of gift of immoveable property :

(2). Other instruments (not being wills) which purport or operate

to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(3). Instruments (not being wills) which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest; and

(4). Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any District, or part of a District, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

Exception of composition deeds;

Nothing in clauses (2) and (3) of this section applies

(*a*) to any composition-deed,

and of transfers of shares and debentures in Land Companies.

(*b*) to any instrument relating to shares in a Joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immoveable property, or

(*c*) to any endorsement upon or transfer of any debenture issued by any such Company.

Authorities to adopt.

Authorities to adopt a son, executed after the first day of January 1872 and not conferred by a will, shall also be registered.

Documents of which the registration is optional.

XVIII. Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),—

(1). Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property:

(2). Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title or interest:

(3). Leases of immoveable property for any term not exceeding one year, and leases exempted under Section 17:

(4). Awards relating to immoveable property:

(5). Instruments which purport or operate to create, declare, assign, limit or extinguish any right, title, or interest to or in moveable property:

(6). Wills:

(7). Acknowledgments, Agreements, Appointments, Articles of Partnership, Assignments, Awards, Bills of Exchange, Bills of Sale, Bonds, Composition-deeds, Conditions of Sale, Contracts, Certified Copies of Decrees and Orders of Courts, Covenants, Grants, Instruments of Dissolution of Partnership, Instruments of Partition, Powers of Attorney, Promissory Notes, Releases, Settlements, Writings of Divorcement, and all other documents not hereinbefore mentioned.

Documents in language not understood by Registering Officer.

XIX. If any document duly presented for registration, be in a language which the Registering Officer does not understand, and which is not commonly used in the District, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the District and also by a true copy.

Documents containing interlineations, blanks, erasures or alterations.

XX. The Registering Officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Description of parcels.

XXI. (*a.*) No document not testamentary relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(*b.*) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

Documents containing maps or plans.

(*c.*) No document not testamentary containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

Failure to comply with rules as to description of houses and land.

XXII. Failure to comply with the provisions contained in Section 21, clause (*b*) shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

PART IV.

Of the Time of Presentation.

Time for presenting documents of which registration is compulsory.

XXIII. Subject to the provisions contained in Sections 24, 25 and 26, no document required by Section 17 to be registered, and no document mentioned in Section 18 other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

or, in the case of a copy of decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

Provision where delay in presentation is unavoidable.

XXIV. If owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

Documents executed out of British India.

XXV. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registering Officer, if satisfied,

(1) that the instrument was so executed, and,

(2) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

Provision where office is closed on last day of period for presentation

XXVI. Whenever a registration office is closed on the last day of any period hereinbefore provided for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Wills may be presented or deposited at any time.

XXVII. A will may at any time be presented for registration or deposited in manner hereinafter provided.

PART V.

Of the Place of Registration.

Place for registering documents relating to land.

XXVIII. Save as in this Part otherwise provided, every document mentioned in Section 17, clauses (1), (2), (3) and (4), and Section 18, clauses (1), (2), (3) and (4), shall be presented for registration in the office of a Sub-Registrar within whose Sub-District the whole or some portion of the property to which such document relates is situate.

Place for registering other documents.

XXIX. Every document other than a document referred to in Section 28 and a copy of a decree or order, may be presented for registration either in the office of the Sub-Registrar in whose Sub-District the document was executed, or in the office of any other Sub-Registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose Sub-District the original decree or order was made, or, where the decree or order does not affect im-

moveable property, in the office of any other Sub-Registrar under the Local Government at which all the persons claiming under the decree or order desire the copy to be registered.

Registration by Registrar.

XXX. (*a.*) Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him,

Registration by Registrar at Presidency Town.

(*b.*) The Registrar of a District including a Presidency Town may receive and register any document referred to in Section 28, without regard to the situation in any part of British India of the property to which the document relates.

Registration or acceptance for deposit at private residence.

XXXI. In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer whose duty it is to register the same.

But such officer may on special cause being shown attend at the residence of any person intending to register any document which would ordinarily be registered at such office, or of any person desiring to deposit a will, and register or accept for registration or deposit such document or will.

PART VI.

Of Presenting Documents for Registration.

Persons to present documents for registration.

XXXII. Except in the case mentioned in Section 31, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration, office,

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative or assign, duly authorized by power of attorney executed and authenticated in manner hereinafter mentioned.

Power of attorney recognizable for purposes of Section 32.

XXXIII. For the purposes of Section 32 the powers of attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(*a*) if the principal at the time of executing the power of attorney resides in any part of British India in which this Act is for the time being in force, a power of attorney executed before and authenticated by the Registrar or Sub-Registrar within whose District or Sub-District the principal resides:

(*b*) if the principal at the time aforesaid resides in any other part of British India, a power of attorney executed before and authenticated by any Magistrate:

(*c*) if the principal at the time aforesaid does not reside in British India, a power of attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

Provided that the following persons shall not be required to attend at any registration office or Court for the purpose of executing any such power of attorney as is mentioned in clauses (*a*) and (*b*) of this section :—

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the Registrar or Sub-Registrar or Judge (as the case may be), if satisfied that the power of attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Judge may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power of attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

Enquiry before registration by registering officer.

XXXIV. Subject to the provisions contained in this Part and in Sections 41, 43, 45, 69, 76, and 86, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation :

Provided that if owing to urgent necessity or unavoidable accident all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(*a*) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(*c*) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

Procedure on admission of execution.

XXXV. If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document;

or, in the case of any person appearing by a representative, assign or agent, if such representative, assign or agent, admits the execution ;

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in Sections 58 to 61 inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

Procedure on denial of execution, &c.

If all or any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document.

Nothing in Section 34 or the former part this section, applies to copies of decrees or orders.

PART VII.

Of Enforcing the Appearance of Executants and Witnesses.

Procedure where appearance of executant or witness is desired.

XXXVI. If any person presenting any document for registration desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

Officer or Court to issue and cause service of summons.

XXXVII. The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Persons exempt from appearance at registration office.

XXXVIII. A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office,

shall not be required so to appear.

In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him; or issue a commission for his examination.

Law as to summonses, commissions and witnesses.

XXXIX. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued, and any person summoned to appear under the provisions of this Act.

PART VIII.

Of Presenting Wills and Authorities to adopt.

Persons entitled to present wills and authorities to adopt.

XL. The testator or any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration, and the donor or donee of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

Registration of wills and authorities to adopt.

XLI. A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt presented for registration by any other person entitled to present it, shall be registered if the officer is satisfied,

(1) that the will or authority was executed by the testator or donor, as the case may be,

(2) that the testator or donor is dead, and

(3) that the person presenting the will or authority is, under Section 40, entitled to present the same.

PART IX.

Of the Deposit of Wills.

Deposit of wills.

XLII. Any testator may either personally or by duly authorized agent deposit with any Registrar the will in a sealed cover superscribed with the name of the depositor and the nature of the document.

Procedure on deposit of wills.

XLIII. On receiving such sealed cover, the Registrar, if satisfied that the depositor is the testator, or his duly authorized agent, shall transcribe in his Register Book No. 5 the superscription on such sealed cover, and note in the register and on the sealed cover the year, month, day and hour of such presentation and receipt, together with the name of the depositor, and the name of each of the persons testifying to the identity of such depositor, and the inscription so far as it is legible on the seal of the cover.

The Registrar shall then place and retain the sealed cover in his fire-proof box.

Withdrawal of sealed cover deposited under Section 42.

XLIV. If the depositor of any such sealed cover wishes to withdraw it, he may apply to the Registrar with whom it has been so deposited for the delivery of the cover; and the Registrar, if satisfied as to the identity of the depositor with the applicant, shall deliver the cover accordingly.

Proceeding on death of depositor.

XLV. If, on the death of the depositor of a sealed cover under Section 42, application be made to the Registrar with whom it has been deposited to open the same, the Registrar, if satisfied that the depositor is dead, shall, in the applicant's presence, open the cover, and copy, at the applicant's expense, the contents thereof in his Book No. 3.

Re-deposit.

When such copy has been made, the Registrar shall re-deposit the original will.

Saving of Act X of 1865, Section 259.

XLVI. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, Section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the Registrar shall copy the will in his Book No. 3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART X.

Of the Effects of Registration and Non-registration.

Time from which registered document operates.

XLVII. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Registered documents relating to property when to take effect against oral agreements.

XLVIII. All documents, not testamentary, duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Effect of non-registration of documents required to be registered.

XLIX. No document required by Section 17 to be registered,

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

Registerered documents relating to land, of which registration is optional, to take effect against unregistered documents.

L. Every document of the kinds mentioned in clauses (1) and (2) of Section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Explanation.—In cases where Act XVI of 1864 or Act XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under this Act.

PART XI.

Of the Duties and Powers of Registering Officers.

(A).—As to the Register Books and Indexes.

Register Books to be kept in the several offices.

LI. The following Books shall be kept in the several offices hereinafter named (that is to say),—

In all Registration Offices—

Book 1, "Register of documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;"
and
Book 4, "Miscellaneous Register."

In the Offices of Registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under the first four clauses of Sections 17 and 18 and all other documents mentioned in Section 18, clause (7), which relate to immoveable property.

In Book 4 shall be entered all documents registered under clauses (5) and (7) of Section 18, and not entered in Book 1.

Nothing in the former part of this section shall be deemed to require more than one set of books where the office of the Registrar has been amalgamated with the office of a Sub-Registrar.

Endorsements on document presented.

Receipt for document.

Documents admitted to registration to be copied.

LII. The day, hour and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it: a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in Section 62, every document admitted to registration shall without unnecessary delay be copied in the Book appropriated therefor according to the order of its admission.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector General.

Entries to be numbered consecutively.

LIII. All entries in each Book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Current indexes and entries therein.

LIV. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

Indexes to be made by registering officers.

LV. Two such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I. and Index No. II.

Index No. I. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into or memorandum filed in Book No. 1 or Book No. 3.

Index No. II. shall contain such particulars mentioned in Section 21 relating to every such document and memorandum as the Inspector General from time to time directs in that behalf.

A third index to be called Index No. III. shall contain the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 4.

Extra particulars in indexes.

Indexes Nos. I., II. and III. shall contain such other particulars, and shall be prepared in such form as the Inspector-General from time to time directs.

Copy of entries in Indexes Nos I. and II. to be sent by Sub-Registrar to Registrar.

Such copy to be filed by Registrar.

LVI. Every Sub-Registrar shall send to the Registrar to whom he is subordinate, at such intervals as the Inspector General from time to time directs, a copy of all entries made by such Sub-Registrar, during the last of such intervals, in Indexes Nos. I. and II.

Every Registrar receiving such copy shall file it in his office.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

LVII. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2 and the indexes relating to Book No. 1 shall be at all times open to inspection by any person applying to inspect the same; and subject to the provisions of Section 62 copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Books Nos. 3 and 4 and in the indexes relating thereto shall be given to any person executing or claiming under the documents to which such entries respectively refer; but the requisite search for such entries shall be made only by the registering officer.

Such copies shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

(*B*).—*As to the procedure on admitting to registration.*

Particulars to be endorsed on documents admitted to registration.

LVIII. On every document admitted to registration, other than a copy of a decree or order, there shall be endorsed from time to time the following particulars (that is to say),—

(1) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign or agent of any person, the signature and addition of such representative, assign or agent;

(2) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(3) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

Such endorsements to be dated and signed by registering officer.

LIX. The registering officer shall affix the date and his signature to all endorsements made under the last preceding section, relating to the same document and made in his presence on the same day.

Certificate showing that document has been registered, and number and page of Book in which it has been copied.

LX. After such of the provisions of Sections 34, 35, 58, and 59, as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the Book in which the document has been copied.

Such certificate shall be signed, sealed and dated by the registering officer and shall then be admissible for the purpose of proving that the

document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in Section 59 have occurred as therein mentioned.

Endorsements and certificate to be copied.

LXI. The endorsements and certificate referred to mentioned in Sections 59 and 60 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1.

Document to be returned.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in Section 52.

Procedure on presenting document in language unknown to registering officer.

LXII. When a document is presented for registration under Section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the registration office.

The endorsements and certificate respectively mentioned in Sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by Sections 57, 64, 65, and 66, the translation shall be treated as if it were the original.

Power to administer oaths.

LXIII. Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Record of substance of statements.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(C).—Special duties of Sub-Registrar.

Procedure on registration of document relating to land situate in several Sub-Districts.

LXIV. Every Sub-Registrar on registering a document relating to immoveable property not wholly situate in his own Sub-District, shall make a memorandum thereof and of the endorsement and certificate thereon, and send the same to every other Sub-Registrar subordinate to the same Registrar as himself in whose Sub-District any part of such property is situate, and such Sub-Registrar shall file the memorandum in his Book No. 1.

Procedure where document relates to land situate in several Districts.

LXV. Every Sub-Registrar on registering a document relating to immoveable property situate in more Districts than one, shall also forward a copy thereof and of the endorsement and certificate thereon, together with a copy of the map or plan (if any) mentioned in Section 21, to the Registrar of every District in which any part of such property is situate other than the District in which his own Sub-District is situate.

The Registrar on receiving the same shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the Sub-Registrars subordinate to him within whose Sub-District any part of such property is situate; and every Sub-Registrar receiving such memorandum shall file it in his Book No. 1.

(D).—Special duties of Registrar.

Procedure on registering documents relating to land.

LXVI. On registering any document not testamentary relating to immoveable property, the Registar shall forward a memorandum of such document to each Sub-Registrar subordinate to himself in whose Sub-District any part of the property is situate.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in Section 21, to every other Registrar in whose District any part of such property is situate.

Such Registrar on receiving any such copy shall file it in his Book No. 1, and shall also send a memorandum of the copy to each of the Sub-Registrars subordinate to him within whose Sub-District any part of the property is situate.

Every Sub-Registrar receiving any memorandum under this section shall file it in his Book No. 1.

Procedure on registration under Section 30, clause b.

LXVII. On any document being registered under Section 30, clause (*b*), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every Registrar within whose District any part of the property to which the instrument relates is situate, and the Registrar receiving such copy shall follow the procedure prescribed for him in the first clause of Section 66.

(E).—Of the controlling powers of Registrars and Inspectors General.

Registrar to superintend and control Sub-Registrars.

LXVIII. Every Sub-Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose District the office of such Sub-Registrar is situate.

Every Registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Sub-Registrar subordinate to him, or in respect of the rectification of any error regarding the Book or the office in which any document shall have been registered.

Inspector General to superintend registration offices.

His power to frame rules.

LXIX. The Inspector General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to frame rules consistent with this Act—

providing for the safe custody of books, papers and documents, and also for the destruction of such books, papers and documents as need no longer be kept;

declaring what languages shall be deemed to be commonly used in each district;

declaring what territorial divisions shall be recognized under Section 21;

regulating the amount of fines imposed under Section 24;

regulating the exercise of the discretion reposed in the registering officer by Section 63;

regulating the form in which registering officers are to make memoranda of documents;

regulating the authentication by Registrars and Sub-Registrars of the books kept in their respective offices under Section 51;

declaring the particulars to be contained in Indexes Nos. I., II., and III., respectively;

declaring the holidays that shall be observed in the registration offices;

and, generally, regulating the proceedings of the Registrars and Sub-Registrars.

The rules so framed shall be submitted to the Local Government for approval, and, after they have been approved, they shall be published in the official *Gazette*, and shall then have the same force as if they were inserted in this Act.

His power to remit fines.

LXX. The Inspector General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under Section 24 or Section 34 and the amount of the proper registration fee.

PART XII.

Of Refusal to Register.

Reasons for refusal to register to be recorded.

LXXI. Every registering officer refusing to register a document,

except (1) where the property to which the document relates is not situate within his District or Sub-District, or (2) where the registering officer being a Registrar declines to accept the document on the ground that it ought to be registered in the office of a Sub-Registrar,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

Registrar may alter or revise orders of Sub-Registrar refusing registration.

LXXII. An appeal shall lie against an order of a Sub-Registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the Registrar to whom such Sub-Registrar is subordinate if presented to such Registrar within thirty days from the date of the order, and the Registrar may reverse or alter such order:

Any Registrar refusing to direct the registration of any document shall make an order of refusal and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

Procedure where Registrar refuses to register or direct registration.

LXXIII. If a Registrar makes under Section 71 or Section 72, an order of refusal to register or to direct the registration of any document,

or if he has made a like order under Section 82 or Section 83 of Act No. XX of 1866,

or if the Sub-Registrar has refused to register the document on the ground that the person, or one of the persons, by whom the document purports to have been executed, has denied the execution,

or if the Registrar has himself as Sub-Registrar made an order of refusal under Section 71,

any person claiming under such document, or his representative, assign or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply by petition to the District Court, in order to establish his right to have the document registered.

Petition.

To be verified.

LXXIV. The petition shall be in the form contained in the second schedule hereto annexed or as near thereto as circumstances permit, and shall be accompanied by copies of the reasons recorded under Section 71 and Section 72; the statements in the petition shall be verified by the petitioner in manner required by law for the verification of plaints; and the petition may be amended by permission of the Court.

Court to fix day for hearing petition, and copy thereof to be served.

LXXV. The Court shall fix a day for the hearing of the petition not less than two days after the service next hereinafter mentioned, and shall direct a copy of the petition, with a notice at the foot thereof of the day so fixed, to be served on the registering officer and on such other persons (if any) as the court thinks fit; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to copies of petitions under this section.

Court may order document to be registered.

LXXVI. The Court may summon and enforce the attendance of witnesses and compel them to give evidence.

and on the day so fixed as aforesaid, or on any day to which the hearing of the petition may be adjourned, shall enquire—

(*a.*) whether the document has been executed, and

(*b.*) Whether the requirements of the law for the time being in force have been complied with on the part of the petitioner so as to entitle the document to registration.

If it finds that the document has been executed and that the said requirements have been complied with, the Court shall order the document to be registered,

and if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58, 59 and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration:

Provision for case in which Judge is registering officer.

Provided that when the officer presiding over the District Court has himself as registering officer made any order complained of under this section, the petition shall, within sixty days after the making of such order, be

presented to the High Court, and the provisions contained in the former part of this section shall, *mutatis mutandis*, apply to such petition and the order (if any) thereon.

The District Court or the High Court, as the case may be, may direct by whom the whole or any part of the costs of any proceedings before it under this Part shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

No appeal lies from any order made under this section.

PART XIII.

Of the Fees for Registration, Searches and Copies.

Fees to be fixed by Local Government.

LXVII. Subject to the approval of the Governor General in Council, the Local Government shall prepare a table of fees payable—

for the registration of documents:

for searching the registers:

for making or granting copies of reasons, entries or documents, before, on or after registration;

And of extra or additional fees payable—

for every registration under Section 30:

for the issue of commissions;

for filing translations:

for attending at private residences;

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

Alteration of fees.

The Local Government may from time to time, subject to the like approval, alter such table.

Publication of fees.

A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the Vernacular language of the district shall be exposed to public view in every registration office.

Fees payable on presentation.

LXXVIII. All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

PART XIV.

Penalties.

Penalty for incorrectly endorsing, copying, translating or registering documents with intent to injure.

LXXIX. Every registering officer appointed under this Act and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury, as defined in the Indian Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for certain other offences.

LXXX. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both:—

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or enquiry under this Act,

Making false statements before registering officers.

(*b*) intentionally delivers to a registering officer in any proceeding under Section 19 or Section 21 a false copy or translation of a document, or a false copy of a map or plan,

Delivering false copy or translation.

(*c*) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or enquiry under this Act,

False personation.

(*d*) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

Abetment of offences under this Act.

LXXXI. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be instituted by or with the permission of the Inspector General, the Branch Inspector General of Sindh, the Registrar or the Sub-Registrar, in whose territories, District or Sub-District, as the case may be, the offence has been committed.

Registering officer may institute prosecutions

Offences punishable under this Act shall be triable by any Court or Officer exercising powers not less than those of a Subordinate Magistrate of the first class:

Provided that in imposing penalties under this Act, no such Court or Officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or Officer.

All fines imposed by this Act may be recovered, if for offences committed outside the limits of the Pesidency Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such Towns for the time being in force.

LXXXII. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Registering officers to be deemed public servants.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in Section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

PART XV.

MISCELLANEOUS.

LXXXIII. Documents (other than wills) remaining unclaimed in any registration office, for a period exceeding two years, may be destroyed.

Destruction of unclaimed documents.

LXXXIV. No registering officer shall be liable to any suit, claim or demand by reason of anything in good faith done or refused in his official capacity.

Registering officer not liable for thing bonâ fide done or refused in his official capacity.

Nothing so done invalidated by defect in appointment or procedure.

LXXXV. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Registration of documents executed by Government officers or certain public functionaries.

LXXXVI. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator General of Bengal, Madras or Bombay, or for any Official Trustee, or for the Sheriff, Receiver or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in Section 58.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator General, Official Trustee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

Exemptions from Act.

Exemption of certain documents executed by or in favor of Government.

LXXXVII. Nothing contained in this Act or any Act hereby repealed shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps:—

(*a.*) Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land revenue, and which form part of the records of such settlement.

(*b.*) Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(*c.*) Documents which, under any law for the time being in force, are filed periodically in any revenue office by patwáris or other officers charged with the preparation of village records.

(*d.*) Sanads, inám title-deed, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

But all such documents and maps shall, for the purposes of Sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

Inspection and copies of such documents.

LXXXVIII. Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in Section 87, clauses (*a*), (*b*) and (*c*), and all registers of the documents mentioned in clause (*d*), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Recognition in Oudh and Burmah for three months of powers of attorney not duly executed.

LXXXIX. From the first of July to the first of October 1871, in the territories respectively administered by the Chief Commissioners of Oudh and British Burmah, a power of attorney not duly executed according to the provisions of Section 33 shall, notwithstanding anything therein contained, be deemed to have been

duly executed under the provisions of the same section, if the registering officer is satisfied that it has been executed in good faith, and if a power of attorney attested under the provisions of this Act cannot be obtained within the time during which the document sought to be registered can, under such provisions, be accepted for registration.

Burmese registration rules confirmed.

XC. All rules relating to registration heretofore enforced in British Burmah shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of any thing done under any of the said rules.

FIRST SCHEDULE.

(*See Section* 2).

Number and year.	Title.	Extent of repeal.
XXII of 1864	An Act to make provision for the Administration of Military Cantonments.	Sections 10 and 45.
XX of 1866	An Act to provide for the registration of assurances.	The whole.
XXVII of 1868	An Act to exempt certain instruments from the Indian Registration Act, 1866.	The whole.
VII of 1870	The Court Fees' Act. ...	In Schedule I the number and words following: "3. Petition under the Indian Registration Act, Section 53."
	All Rules relating to the registration of documents and having the force of law in Oudh.	The whole.
	All Rules relating to the registration of documents and having the force of law in any part of British Burmah.	The whole.

SECOND SCHEDULE.

Forms of petition under Section 73.

Stamp
eight annas.

To the Judge of the District Court [*or* To the Deputy Commissioner] of

The day of 18 .

The petition of A. B. of

Sheweth—

1. That by an instrument dated the day of and made between C. D. of one part and your petitioner of the other part, certain lands were conveyed to your petitioner absolutely.

2. That such instrument was executed by the said C. D. on the day of 18 .

3. That the property to which such instrument relates is situate in the Sub-District of the Sub-Registrar of and in the District of

4. That on the day of your petitioner presented the said instrument for registration under "Indian Registration Act, 1871," in the office of the said Sub-Registrar.

5. That the said Sub-Registrar thereupon made an order of refusal, dated the day of 18 , to Register the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

6. That your petitioner on the day of appealed to the Registrar of against such order

7. That the said Registrar thereupon made an order of refusal, dated the day of to direct the registration of the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

8. That the reasons referred to in paragraphs 5 and 7 of this petition are, as your petitioner submits, insufficient.

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument.

A. B.

Another Form.

Stamp eight annas.

To the Judge of the District Court [*or* To the Deputy Commissioner] of

The day of 18 .

The petition of A. B. of

Sheweth—

1. That by an instrument dated the day of and made between C. D. of the one part and your petitioner of the other part, certain lands were conveyed to your petitioner by way of mortgage to secure the sum of one thousand rupees.

2. That such instrument was executed by the said C. D. on the day of 18 .

3. That the property which such instrument relates is situate in the Sub-District of the Sub-Registrar of and in the District of

4. That on the day of your petitioner presented the said instrument for registration under the Indian Registration Act, 1871, in the office of the said Sub-Registrar, and the said C. D. appeared personally before the said Sub-Registrar and falsely denied the execution of the said instrument.

5. That the said Sub-Registrar thereupon made an order of refusal dated the day of 18 to register the said instrument and gave your petitioner a copy, which is filed herewith, of the reasons for such order.

6. That your petitioner has complied with the requirements of the said Act so far as it has been possible for him to do so.

Your petitioner therefore prays that your Honour will order the said Sub-Registrar to register the said instrument.

A. B.

From of Verification.

I, A. B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) A. B.

ACT No IX. OF 1871.

THE INDIAN LIMITATION ACT, 1871.

1. Short title. Extent of Act. Commencement.
2. Repeal of enactments.
3. Interpretation clause.
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7. Legal disability.
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10. Suits against express trustees and their representatives.
11. Suits on foreign contracts.
12. Foreign limitation-law.
13. Exclusion of day on which right to sue accrues. Exclusions in case of appeals and certain applications.
14. Exclusion of time of defendant's absence from British India.
15. Exclusion of time of suing *bonâ fide* in Court without jurisdiction.
16. Exclusion of time during which commencement of suit is stayed by injunction.
17. Exclusion of time during which judgment-debtor sues to set aside execution sale.
18. Effect of death before right to sue accrues.
19. Effect of fraud.
20. Effect of acknowledgment in writing.
21. Effect of paying interest as such. Effect of part-payment of principal.
22. Effect of substituting or adding new plaintiff or defendant. Proviso where original plaintiff dies. Proviso where original defendant dies.
23. Computation where there are successive breaches of contract. Computation where the breach is continuing.
24. Continuing nuisance.
25. Suit for compensation for act becoming unlawful.
26. Computation of time mentioned in instruments
27. Acquisition of right to easements.
28. Exclusion in favour of reversioner of servient tenement.
29. Extinguishment of right to land or hereditary office.
FIRST SCHEDULE.—Enactments repealed.
SECOND SCHEDULE.—First division (suits.) Second division (appeals.) Third division (applications.)

An Act for the Limitation of Suits and for other purposes.

Preamble. Whereas it is expedient to consolidate and amend the law relating to the limitation of suits, appeals and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring ownership by possession; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. I. This Act may be called 'The Indian Limitation Act, 1871:'

Extent of Act. It extends to the whole of British India; but nothing contained in Section 2 or 3 or in Parts II and III applies—

(*a*) to suits instituted before the first day of April, 1873,

(*b*) to suits under the Indian Divorce Act,

(*c*) to suits under Madras Regulation VI of 1831.

Commencement. This Act shall come into force on the first day of July 1871.

II. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the same schedule.

Repeal of enactments.

Interpretation clause. III. In this Act, unless there be something repugnant in the subject or context,

'minor' means a person who has not completed his age of eighteen years:

'plaintiff' includes also any person through whom a plaintiff claims:

'nuisance' means any thing done to the hurt or annoyance of another's immoveable property and not amounting to a trespass:

'bill of exchange' includes also a hundí:

'trustee' does not include a benámídár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title:

'registered' means duly registered under the law for the registration of documents in force at the time and place of executing the document referred to in the context:

'foreign country' means any country other than British India;

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

PART II.

Limitation of Suits, Appeals and Applications.

Dismissal of suits, &c., instituted, &c., after period of limitation.

IV. Subject to the provisions contained in Sections 5 to 26 (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted in ordinary cases when the plaint is presented to the proper officer: in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*). A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The appellate Court must dismiss the suit.

(*b*). An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

Proviso where Court is closed when period expires.

V. (*a*). If the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, presented or made on the day that the Court re-opens:

Proviso as to appeals and applications for review.

(*b*). Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Different periods of limitation prescribed by local laws.

VI. When, by any law not mentioned in the schedule hereto annexed and now or hereafter to be in force in any part of British India, a period of limitation differing from that prescribed by this Act is specially prescribed for any suits, appeals or applications, nothing herein contained shall affect such law.

Appeals from decrees of High Courts on original side.

And nothing herein contained shall affect the periods of limitation prescribed for appeals from, or applications to review, any decree, order or judgment of a High Court in the exercise of its original jurisdiction.

Legal Disability.

Legal disability.

VII. If a person entitled to sue be, at the time the right to sue accrued, a minor, or insane, or an idiot, he may institute the suit within the same period after the disability has ceased, or (when he is at the time of the accrual affected by two disabilities) after both disabilities have ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

When his disability continues up to his death, his representative in interest may institute the suit within the same period after the death as would otherwise have been allowed from the time prescribed therefor in the third column of the same schedule.

Nothing in this section shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby the period within which the suit must be brought.

Illustrations.

(*a*). The right to sue for the hire of a boat accrues to A during his minority. He comes of age four years after the accrual of the right. He may institute his suit at any time within three years from the date of his coming of age.

(*b*). A, to whom a right to sue for a legacy has accrued during his minority attains full age eleven years after such right accrued. A has, under the ordinary law only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his majority, within which he may bring his suit.

(*c*). A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accrual of the right A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(*d*). A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accrual of the right, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time.

Disability of one joint-creditor.

VIII. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until they all are free from disability.

Continuous running of time

IX. When once time has begun to run, no subsequent disability or inability to sue stops it:

Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

X. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his representatives, for the purpose of following in his or their hands such property, shall be barred by any length of time.

Explanation.—A purchaser in good faith for value from a trustee is not his representative within the meaning of this section.

Suits on foreign contracts.

XI. Suits in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Foreign limitation law.

XII. No foreign rule of limitations shall be a defence to a suit in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

PART III.

Computation of Period of Limitation.

Exclusion of day on which right to sue accrues.

XIII. In computing the period of limitation prescribed for any suit, the day on which the right to sue accrued shall be excluded.

Exclusions in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper, an application to the High Court for the admission of a special appeal, and an application for a review of judgment, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree, sentence or order appealed against or sought to be reviewed, shall be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

Exclusion of time of defendant's absence from British India.

XIV. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded, unless service of a summons to appear and answer in the suit can, during such absence, be made under the Code of Civil Procedure, Section 60.

Exclusion of time of suing bonâ fide *in Court without jurisdiction.*

XV. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another suit, whether in a Court of first instance or in a Court of appeal, against the same defendant or some person whom he represents, shall be excluded, where the last-mentioned suit is founded upon the same right to sue, and is instituted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to try it.

Explanation 1.—In excluding the time during which a former suit was pending, the day on which that suit was instituted, and the day on which the proceedings therein ended, shall both be counted.

Explanation 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction shall be deemed to be prosecuting a suit within the meaning of this section.

Exclusion of time during which commencement of suit is stayed by injunction.

XVI. In computing the period of limitation prescribed for any suit, the commencement of which has been stayed by injunction, the time of the continuance of the injunction shall be excluded.

Exclusion of time during which judgment-debtor sues to set aside execution sale.

XVII. In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a suit to set aside the sale shall be excluded.

Effect of death before right to sue accrues.

XVIII. When a person who would, if he were living, have a right to sue, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative in interest of the deceased capable of suing.

When a person against whom, if he were living, a right to sue would have accrued, dies before the right accrues, the period of limitation shall be computed from the time when there is a representative whom the plaintiff may sue.

Nothing in the former part of this section applies to suits for the possession of land or of an hereditary office.

Effect of fraud.

XIX. When any person having a right to sue has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

and where any document necessary to establish such right has been fraudulently concealed,

the time limited for commencing a suit,

(*a*) against the person guilty of the fraud or accessory thereto, or,

(*b*) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or in the case of the concealed document, when he first had the means of producing it or compelling its production.

Effect of acknowledgment in writing.

XX. (*a*). No promise or acknowledgment in respect of a debt or legacy shall take the case out of the operation of this Act, unless such promise or acknowledgment is contained in some writing signed, before the expiration of the prescribed period, by the party to be charged therewith or by his agent generally or specially authorized in this behalf.

(*b*). When such writing exists, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the promise or acknowledgment was signed.

(*c*). When the writing containing the promise or acknowledgment is undated, oral evidence may be given of the time when it was signed. But when it is alleged to have been destroyed or lost, oral evidence of its contents shall not be received.

Explanation. 1.—For the purposes of this section, a promise or acknowledgment may be sufficient, though it omits to specify the exact amount of the debt or legacy, or avers that the time for payment or delivery has not yet come, or is accompanied by a refusal to pay or deliver, or is coupled with a claim to a set-off, or is addressed to any person other than the creditor or legatee;

but it must amount to an express undertaking to pay or deliver the debt or legacy or to an unqualified admission of the liability as subsisting.

Explanation 2.—Nothing in this section renders one of several partners or executors chargeable by reason only of a written promise or acknowledgment signed by another of them.

Illustrations.

A. Z, a bond-debtor, himself writes a letter promising to pay the debt to his creditor Z affixes his seal, but does not sign the letter:

Z pays part of the debt and promises orally to pay the rest:

Z publishes an advertisement, requesting his creditors to bring in their claims for examination:

In none of these cases is the debt taken out of the operation of this Act.

Effect of payment of interest as such.

XXI. When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent generally or specially authorized in this behalf,

Effect of part-payment of principal.

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent generally or specially authorized in this behalf,

a new period of limitation, according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that, in the case of part-payment of principal, the debt has arisen from a contract in writing and the fact of the payment appears in the hand-writing of the person making the same, on the instrument, or in his own books, or in the books of the creditor.

Effect of substituting or adding new plaintiff or defendant.

XXII. When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have commenced when he was so made a party:

Proviso where original plaintiff dies.

Provided that, when a plaintiff dies, and the suit is continued by his representatives in interest, it shall, as regards them, be deemed to have commenced when it was instituted by the deceased plaintiff:

Proviso where original defendant dies.

Provided also, that, when a defendant dies, and the suit is continued against his representatives in interest, it shall, as regards them, be deemed to have been commenced when it was instituted against the deceased defendant.

Computation where there are successive breaches of contract.

XXIII. In the case of a suit for the breach of a contract, where there are successive breaches, a fresh right to sue arises, and a fresh period of limitation begins to run upon every fresh breach; and where the breach is a

Computation where the breach is continuing

continuing breach, a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the breach continues.

Nothing in the former part of this section applies to suits for the breach of contracts for the payment of money by instalments, where on default made in payment of one instalment, the whole becomes due.

Illustrations.

(*a*). A contracts to pay an annuity to B for his life by quarterly instalments. A fails to pay any of the instalments. Here upon every fresh failure, a fresh right to sue arises and a fresh period of limitation begins to run; and this Act may bar the remedy on the earlier breaches without affecting the remedy on the later breaches.

(*b*). A, a tenant, covenants with B, his landlord, to keep certain buildings in repair. At every moment of the time during which the buildings continue out of repair and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

Continuing nuisance.

XXIV. In the case of a continuing nuisance a fresh right to sue arises, and a fresh period of limitation begins to run, at every moment of the time during which the nuisance continues.

Illustration.

A diverts B's water-course. At every moment of the time during which the diversion continues and B retains his right of entry, a fresh right to sue arises and a fresh period of limitation begins to run.

Suit for compensation for act becoming unlawful.

XXV. In the case of a suit for compensation for an act lawful in itself, which becomes unlawful in case it causes damage, the period of limitation shall be computed from the time when the damage accrues.

Illustration.

A owns the surface of a field. B owns the sub-soil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation runs from the time of the subsidence.

Computation of time mentioned in instrument.

XXVI. All instruments shall for, the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

Illustrations.

(*a*). A Hindú makes a Promissory Note bearing a native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(*b*). A Hindú makes a bond, bearing a native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

PART IV.

ACQUISITION OF OWNERSHIP BY POSSESSION.

Acquisition of right to easements.

XXVII. Where the access and use of light or air to and for any building has been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

and where any way or water-course, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, water-course, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation.—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Illustrations.

(*a*). A suit is brought in 1871 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January 1850 to 1st January 1870. The plaintiff is entitled to judgment.

(*b*). In a like suit also brought in 1871 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1848 to 1868. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(*c*). In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

Exclusion in favour of reversioner of servient tenement.

XXVIII. Provided that, when any land or water upon, over or from which any easement (other than the access and use of light and air) has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term, shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a deceased Hindú widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Extinguishment of right to land or hereditary office.

XXIX. At the determination of the period hereby limited to any person for instituting a suit for possession of any land or hereditary office, his right to such land or office shall be extinguished.

FIRST SCHEDULE.

(*See Section* 2.)

Number and year.	Subject or title.	Extent of repeal.
21 Jac. I, cap. sixteen.	An Act for limitation of actions and for avoiding of suits in law.	The whole Statute, so far as it applies to British India.
4 Ann, cap. sixteen.	An Act for the amendment of the law and the better advancement of justice.	Sections 17, 18, and 19 so far as they apply to British India.
33 Geo. III, cap. fifty-two.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further regulations for the Government of the said territories, and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	So much of Section 162, as relates to the limitation of civil suits in British India.
53 Geo. III, cap. one hundred and fifty-five.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the Government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company.	Section 124. so far as it applies to British India.
9 Geo. IV, cap. seventy-four.	Administration of Criminal justice.	So much of Section 51 as relates to civil suits.
6 & 7 Vic., cap. 94	Foreign Jurisdiction Act ...	Section 7, so far as it applies to British India.
Act No. XIV of 1840.	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements, by extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 9 Geo. IV, cap. 14.	From and including the words "Whereas by an Act" down to and including the words "Defendants against the Plaintiff."

FIRST SCHEDULE—(*Continued.*)

Number and year	Subject or title.	Extent of repeal.
Act No. XI of 1841	Military Courts of Requests ...	The proviso in Section 9.
Act No. XX of 1847	Copyright Act ...	In Section 16, the words 'actions, suits, bills.'
Act No. XII of 1855.	An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.	In Section 1, the words "and provided such action shall be brought within one year after the death of such person," and the words "and so as such action shall be commenced within two years after the committing of the wrong."
Act No. XIII of 1855.	Compensation for loss occasioned by death caused by actionable wrong.	In Section 2, the words "and that every such action shall be brought within twelve calendar months after the death of such deceased person."
Act No. XXV of 1857.	Forfeiture for mutiny ...	Section 9.
Act No. VIII of 1859.	The Code of Civil Procedure...	In Section 119, the words "within a reasonable time not exceeding thirty days after any process for enforcing the judgment has been executed," and the words "within thirty days from the date of the judgment." In Section 230, the words "within one month from the date of such dispossession." The last twelve words of Sec. 216. In Section 256, the words "At any time within thirty days from the date of the sale." In Section 269, the words "if made within one month from the date of such existence or obstruction or of such dispossession, as the case may be." In Section 321, the second sentence. In Section 327, the words "within six months from the date of the award." In Section 333 from and including the word "within the period" down to

FIRST SCHEDULE.—(*Continued.*)

Number and year.	Subject or title.	Extent of repeal.
		the end of the section. In Section 347, the words "within thirty days from the date of the dismissal" In Section 337, the words "within the period prescribed for the presentation of a memorandum of appeal." So much of Section 377 as has not been repealed.
Act No. XIV of 1859.	An Act to provide for the limitation of suits.	The whole Act, except so much of Section 15 as does not relate to the limitation of suits.
Act No. IX of 1860	Workmen and employers ...	So much of Section 2 as relates to the limitation of suits.
Act No. XXXI of 1860.	Arms Act	So much of Section 49 as relates to the limitation of suits.
Act No. V of 1861	Mofussil Police	So much of Section 42 as relates to the limitation of suits.
Act No. XXIII of 1861.	Civil Procedure Code Amendment.	Section 12.
Act No. XXV of 1861.	Criminal Procedure Code ...	Section 415.
Act No. I of 1863	Civil Courts in British Burmah.	Section 21.
Act No. VI of 1863	Consolidated Customs Act ...	So much of Section 211 as relates to the limitation of suits.
Act No. XXIII of 1863.	Claims to Waste-lands ...	So much of Section 5 as relates to the limitation of suits.
Act No. VII of 1865	Government Forests Act ...	So much of Section 16 as relates to the limitation of suits.
Act No. XX of 1866	Registration Act ...	Section 51.
Act No. XIV of 1868.	Contagious Diseases Act ...	So much of Section 25 as relates to the limitation of suits.
Act No. XX of 1869	Volunteers	So much of Section 26 as relates to the limitation of suits.

FIRST SCHEDULE.—(*Continued.*)

Number and year.	Subject or title.	Extent of repeal.
Act No. X of 1870	Land Acquisition... ...	So much of Section 58 as relates to the limitation of suits.
Act No. IV of 1871	Coroners	In Section 42, the words 'after the expiration of three months from such fact or failure, nor'
Bombay Regulation V of 1827 ..	A Regulation defining the Limitations, as to Time, within which civil actions may be prosecuted, and containing Rules of Judication respecting written Acknowledgments of Debts executed without receipt of a full consideration; also regarding Interest, the tendering payment of Debts, and the disposal of Property mortgaged or pledged.	Chapter I.

SECOND SCHEDULE.

(*See Section* 4.)

FIRST DIVISION: SUITS.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part I.—Thirty-days.	
1.—To contest an award of the Board of Revenue under Act XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*).	Thirty days ...	When notice of the award is delivered to the plaintiff.
	Part II.—Ninety days.	
2.—For doing, or for omitting to do, an act in pursuance of any enactment in force for the time being in British India.	Ninety days ...	When the act or omission took place.

SECONE SCHEDULD—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part III.—Six months.	
3.—Under Act XIV of 1859 (*to provide for the limitation of suits*), Section 15, to recover possession of immoveable property.	Six months ...	When the dispossession occurs.
4.—Under Act IX of 1860 (*to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), Section 1.	Ditto ...	When the wages, hire, or price of work claimed accrued due.
5.—Under Act V of 1866 (*to provide a summary procedure on bills of exchange, and to amend, in certain respects, the commercial law of British India*).	Ditto ...	When the bill or promissory note becomes due and payable.
	Part IV.—One year.	
6.—Upon a Statute, Act, Regulation, or Bye-law, for a penalty or forfeiture.	One year ...	When the penalty or forfeiture is incurred.
7.—For the wages of a domestic servant, artisan or labourer not provided for by this schedule, No. 4.	Ditto ...	When the wages sued for accrue due.
8.—For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	Ditto ...	When the food or drink is delivered.
9.—For the price of lodging ...	Ditto ...	When the lodging ends.
10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract.	Ditto ...	When the purchaser takes actual possession under the sale sought to be impeached.
11.—For damages for infringing copy-right or any other exclusive privilege.	Ditto ...	The date of the infringement.
12.—By executors, administrators, or representatives under Act XII of 1855 (*to enable the executors, administrators or representatives to sue and be sued for certain wrongs*).	Ditto ...	The date of the death of the person wronged.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year,—contd.	
13.—By executors, administrators or representatives under Act XIII of 1855 (*to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*).	One year ...	The date of the death of the person killed.
14.—To set aside any of the following sales:— (*a*) sale in execution of a decree of a Civil Court; (*b*) sale in pursuance of a decree or order of a Collector or other officer of revenue; (*c*) sale for arrears of Government revenue or for any demand recoverable as such arrears; (*d*) sale of a patní táluq sold for current arrears of rent. *Explanation.*—In this clause 'patní' includes any intermediate tenure saleable for current arrears of rent.	Ditto ...	When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.
15.—To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit.	One year ...	The date of the final decision or order in the case by a Court competent to determine it finally.
16.—To set aside any act of an officer of Government in his official capacity, not herein otherwise expressly provided for.	Ditto ...	The date of the act.
17.—Against Government to set aside any attachment, lease or transfer of immoveable property by the revenue authorities for arrears of Government revenue.	Ditto ...	When the attachment, lease or transfer is made.

SECOND SCHEDULE—*(Continued).*

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part IV.—One year,—Concluded	
18.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.	One year .	When the payment is made.
19.—Against Government for compensation for land acquired for public purposes.	Ditto ...	The date of determining the amount of the compensation.
20.—Like suit for compensation when the acquisition is not completed.	Ditto ...	The date of the refusal to complete.
21.—For false imprisonment ...	Ditto ...	When the imprisonment ends.
22.—For any other injury to the person.	Ditto ...	When the injury is committed.
23.—For a malicious prosecution ...	Ditto ...	When the plaintiff is acquitted.
24.—For libel ...	Ditto ...	When the libel is published.
25.—For slander ...	Ditto ...	When the words are spoken.
26.—For taking or damaging moveable property.	Ditto ...	When the taking or damage occurs.
27.—For loss of service occasioned by the seduction of the plaintiff's servant or daughter.	Ditto ...	When the loss occurs.
28.—For inducing a person to break a contract with the plaintiff.	Ditto ...	The date of the breach.
29.—For an illegal, irregular or excessive distress.	Ditto ...	The date of the distress.
30.—For wrongful seizure of moveable property under legal process.	Ditto ...	The date of the seizure.
	Part V.—Two years.	
31.—For obstructing a way or a water-course.	Two years ...	The date of the obstruction.

SECOND SCHEDULE—(*Continued*).

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part V.—Two years,—contd.	
32.—For diverting a water-course ...	Two years ...	The date of the diversion.
33.—For wrongfully detaining title deeds.	Ditto ...	When the title to the property comprised in the deeds is adjudged to the plaintiff, or the detainer's possession otherwise becomes unlawful.
34.—For wrongfully detaining any other moveable property.	Two years ...	When the detainer's possession becomes unlawful.
35.—For specific recovery of moveable property in cases not provided for by this schedule, numbers 48 and 49.	Ditto ...	When the property is demanded and refused.
36.—Against a carrier for losing or injuring goods.	Ditto ...	When the loss or injury occurs.
37.—Against a carrier for delay in delivering goods.	Ditto ..	When the goods ought to be delivered.
38.—Against one who, having a right to use property for specific purposes, perverts it to other purposes.	Ditto ...	The time of the perversion.
39.—Under Act XII of 1855 (*to enable executors, administrators or representatives to sue and be sued for certain wrongs*) against an executor, administrator or other representative.	Ditto ...	When the wrong complained of is done.
40.—For compensation for any wrong malfeasance, nonfeasance or misfeasance independent of contract and not herein specially provided for.	Ditto ...	When the wrong is done or the default happens.
41.—For the recovery of a wife ...	Ditto ...	When possession is demanded and refused.
42.—For the restitution of conjugal rights.	Ditto ...	When restitution is demanded and refused.
	Part VI.—Three years.	
43.—For trespass upon immoveable property.	Three years ...	When the trespass takes place.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—contd.	
44.—To contest an award under any of the following regulations of the Bengal Code:— VII of 1822, IX of 1825, and IX of 1833.	Three years ...	The date of the final award or order in the case.
45.—By a party bound by such award to recover any property comprised therein.	Ditto ...	Ditto.
46.—By any person bound by an order respecting the possession of property made under Act XVI of 1838, Section 1, Clause 2, or Act XXV of 1861, Chapter 22, or Bombay Act V of 1864, or by any one claiming under such person, to recover the property comprised in such order.	Ditto ...	The date of the final order in the case.
47.—For lost moveable property not dishonestly misappropriated or converted.	Ditto ...	When the property is demanded and refused.
48.—For moveable property acquired by theft, extortion, cheating, or dishonest misappropriation or conversion.	Ditto ...	Ditto.
49.—For the hire of animals, vehicles, boats or household furniture.	Ditto ...	When the hire becomes payable.
50.—For the balance of money advanced in payment of goods to be delivered.	Ditto ...	When the goods ought to be delivered.
51.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon.	Ditto ...	The date of the delivery of the goods.
52.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit.	Ditto ...	The expiry of the period of credit.
53.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Ditto ...	When the period of the proposed bill elapses.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—contd.	
54.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Three years ...	The date of the sale.
55.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Ditto ...	When the work is done.
56.—For money payable for money lent.	Ditto ...	When the loan is made.
57.—Like suit when the lender has given a cheque for the money.	Ditto ...	When the cheque is paid.
58.—For money lent under an agreement that it shall be payable on demand.	Ditto ...	When the demand is made.
59.—For money payable to the plaintiff for money paid for the defendant.	Ditto ...	When the money is paid.
60.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Ditto ...	When the money is received.
61.—For money payable for interest upon money due from the defendant to the plaintiff.	Ditto ...	When the interest becomes due.
62.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Ditto ...	When the accounts are stated, unless where the debt is made payable at a future time and then when that time arrives.
63.—Upon a promise to do anything at a specified time, or upon the happening of a specified contingency.	Ditto ..	At the time specified or upon the contingency happening.
64.—Against a factor for an account.	Ditto ...	When the account is demanded, or where no such demand is made, when the agency terminates.
65.—On a single bond where a day is specified for payment.	Ditto ...	The day so specified.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—contd.	
66.—On a single bond where no such day is specified.	Three years ...	The date of executing the bond.
67.—On a bond subject to a condition.	Ditto ...	When the condition is broken.
68.—On a bill of exchange or promissory note payable at a fixed time after date.	Ditto ...	When the bill or note falls due.
69.—On a bill of exchange payable at or after sight.	Ditto ...	When the bill is presented.
70.—On a bill of exchange accepted payable at a particular place.	Ditto ...	When the bill is presented at that place.
71.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand.	Ditto ...	When the fixed time expires.
72.—On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to issue.	Ditto ...	When the demand is made.
73.—By the endorsee of a bill or promissory note against the endorser.	Ditto ..	The date of the endorsement.
74.—On a promissory note or bond payable by instalments.	Ditto ...	The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment.
75.—On a promissory note or bond payable by instalments, which provides that if default be made in payment of one instalment the whole shall be due.	Ditto ...	The time of the first default, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made.
76.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Ditto ...	The time of the delivery to the payee.
77.—On a dishonoured foreign bill where protest has been made and notice given.	Ditto ...	When the notice is given.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—contd.	
78.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance.	Three years ...	The date of the refusal to accept.
79.—Like suit when the bill has been dishonoured by non-acceptance and afterwards by non-payment.	Ditto ...	Ditto.
80.—Suit on a bill of exchange or promissory note not herein expressly provided for.	Ditto ...	When the bill or note becomes payable.
81.—By the acceptor of an accommodation bill against the drawer.	Ditto ...	When the acceptor pays the amount.
82.—By a surety against the principal debtor.	Ditto ...	When the surety pays the creditor.
83.—By a surety against a co-surety.	Ditto ...	When the plaintiff pays any thing in excess of his own share.
84.—Upon any other contract to indemnify.	Ditto ...	When the plaintiff is actually damnified.
85.—By an attorney or vakíl for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid.	Ditto ...	The termination of the suit or business, or (where the attorney or vakíl properly discontinues the suit or business) the date of such discontinuance.
86.—For compensation for damage caused by an injunction wrongfully obtained.	Ditto ...	When the injunction ceases.
87.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Ditto ...	The time of the last item admitted or proved in the account.
88.—On a policy of insurance when the sum assured is payable after proof of the death or loss has been given to or received by the insurers.	Ditto ...	When proof of the death or loss is given or received, to or by the insurers, whether by or from the plaintiff, or any other person.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suits.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—contd.	
89.—By the assured to recover premia paid under a policy voidable at the election of the insurers.	Three years ...	When the insurers elect to avoid the policy.
90.—By a principal against his agent for moveable property received by the latter and not accounted for.	Ditto ...	When the account is demanded and refused.
91.—Other suits by principals against agents for neglect or misconduct.	Ditto ...	When the neglect or misconduct occurs.
92.—To cancel or set aside an instrument not otherwise provided for.	Ditto ...	When the instrument is executed.
93.—To declare the forgery of an instrument issued, or registered, or attempted to be enforced.	Ditto ...	The date of the issue, registration, or attempt.
94.—For property which the plaintiff has conveyed while insane.	Ditto ...	When the plaintiff is restored to sanity and has knowledge of the conveyance.
95.—For relief on the ground of fraud.	Ditto ...	When the fraud becomes known to the party wronged.
96.—To set aside a decree obtained by fraud.	Ditto ...	Ditto.
97.—For relief on the ground of mistake in fact.	Ditto ...	When the mistake becomes known to the plaintiff.
98.—For money paid upon an existing considertion which afterwards fails.	Ditto ...	The date of the failure.
99.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Ditto ...	The date of the trustee's death, or, if the loss has not then been occasioned, the date of the loss.
100.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers.	Ditto ...	The date of the plaintiff's advance in excess of his own share.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—contd.	
101.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Three years ...	When the right to contribution accrues.
102.—For a seaman's wages ...	Ditto ...	The end of the voyage during which the wages are earned
103.—By a Muhammadan for exigible dower (*mu'ajjal*).	Ditto ...	When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce.
104.—By a Muhammadan for deferred dower (*mu'wajjal*).	Ditto ...	When the marriage is dissolved by death or divorce.
105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee.	Ditto ...	The date of the receipt.
106.—For an account and a share of the profits of a dissolved partnership.	Ditto ...	The date of the dissolution.
107.—By a Hindú manager of a joint estate for contribution in respect of a payment made by him on account of the estate.	Ditto ...	The date of the payment.
108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Ditto ...	When the trees are cut down.
109.—For the profits of immoveable property belonging to the plaintiff wrongfully received by the defendant.	Ditto ...	When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, the date of the decree of the Appellate Court.
110.—For arrears of rent ...	Ditto ...	When the arrears become due.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VI.—Three years,—concld.	
111.—By a vendor of immoveable property to enforce his lien for unpaid purchase-money.	Three years, ...	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
112.—For a call by a Company registered under any Statute or Act.	Ditto ...	When the call is made.
113.—For specific performance of a contract.	Ditto ...	When the plaintiff has notice that his right is denied.
114.—For the rescission of a contract.	Ditto ...	When the contract is executed by the plaintiff.
115.—For the breach of any contract, express or implied, not in writing registered, and not herein specially provided for.	Ditto ...	When the contract is broken, or (where there are successive breaches) when the breach sued for occurs, or (where the breach is continuing) when it ceases.
	Part VII.—Six years.	
116.—Upon a judgment obtained in a foreign country.	Six years ...	The date of the judgment.
117.—On a promise or contract in writing registered.	Ditto ...	When the period of limitation would begin to run against a suit brought on a similar promise or contract not registered.
118.—Suit for which no period of limitation is provided elsewhere in this schedule.	Ditto ...	When the right to sue accrues.
	Part VIII.—Twelve years.	
119.—By an auction-purchaser or any one claiming under him to avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, the estate being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII—Twelve years,—Continued.	
120.—To avoid incumbrances of under-tenures in a *patní táluq* or other saleable tenure sold for arrears of rent, the táluq or tenure being, by virtue of such sale, freed from incumbrances and under-tenures.	Twelve years ...	When the sale becomes final and conclusive.
121.—Upon a judgment obtained in British India, or a recognizance.	Ditto ...	The date of the judgment or recognizance.
122.—For a legacy or for a distributive share of the moveable property of a testator or intestate.	Ditto ...	When the legacy or share becomes payable or deliverable.
123.—For possession of an hereditary office.	Ditto ...	When the defendant, or some person through whom he claims, took possession of the office adversely to the plaintiff. *Explanation.*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed.
124—Suit during the life of a Hindú widow by a Hindú entitled to the possession of land on her death to have an alienation made by the widow declared to be void except for her life.	Ditto ..	The date of the alienation.
125.—By a Hindú governed by the law of the Mitákshara to set aside his father's alienation of ancestral property.	Ditto ...	The date of the alienation.
126.—Like suit by a Hindú governed by the law of the Dáyabhága.	Ditto ...	When the father dies.
127.—By a Hindú excluded from joint-family property to enforce a right to share therein.	Ditto ...	When the plaintiff claims and is refused his share.

SECOND SCHEDULE.—(*Continued.*)

FIRST DIVISION: SUITS.—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years,—continued.	
128.—By a Hindú for maintenance...	Twelve years ...	When the maintenance sued for is claimed and refused.
129.—To establish or set aside an adoption.	Ditto ...	The date of the adoption, or (at the option of the plaintiff) the date of the death of the adoptive father.
130.—For the resumption or assessment of rent-free land.	Ditto ...	When the right to resume or assess the land first accrued: Provided that no such suit shall be maintained where the land forms part of a permanently-settle estated, and has been held rent-free from the time of the Permanent Settlement.
131.—To establish a periodically recurring right.	Ditto ...	When the plaintiff is first refused the enjoyment of the right.
132.—For money charged upon immoveable property. *Explanation.*—The allowance and fees called *málikána* and *haqqs* shall, for the purpose of this clause, be deemed to be money charged upon immoveable property.	Ditto ...	When the money sued for becomes due.
133.—To recover moveable property conveyed in trust, deposited or pawned and afterwards bought from the trustee, depository or pawnee, in good faith and for value.	Ditto ...	The date of the purchase.
134.—To recover possession of immoveable property conveyed in trust or mortgaged and afterwards purchased from the trustee or mortgagee in good faith and for value.	Ditto ...	The date of the purchase.

SECOND SCHEDULE—(*Continued.*)

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.*	Time when period begins to run.
	Part VIII.—Twelve years,—continued.	
135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged.	Twelve years ...	When the mortgagee is first entitled to possession.
136.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale.	Ditto ...	When the vendor is first entitled to possession.
137.—Like suit by a purchaser at a sale in execution of a decree, when the execution-debtor was out of possession at the date of the sale.	Ditto ...	When the execution-debtor is first entitled to possession.
138.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when he never has had possession.	Ditto ...	The date of the sale.
139.—Like suit when the purchaser had possession, but was afterwards dispossessed.	Ditto ...	The date of the dispossession.
140.—By a landlord to recover possession from a tenant.	Ditto ...	When the tenancy is determined.
141.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property.	Ditto ...	When his estate falls into possession.
142.—Like suit by a Hindú entitled to the possession of immoveable property on the death of a Hindú widow.	Ditto ...	When the widow dies.
143.—For possession of immoveable property, when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession.	Ditto ...	The date of the dispossession or discontinuance.
144.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Ditto ..	When the forfeiture was incurred or the condition broken.

SECOND SCHEDULE—*(Continued.)*

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part VIII.—Twelve years,— concluded.	
145.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for.	Twelve years ...	When the possession of the defendant, or of some person through whom he claims, became adverse to the plaintiff.
146.—For a declaration of right to an easement.	Ditto ...	When the easement ceased to be enjoyed by the plaintiff, or the persons on whose behalf he sues.
	Part IX.—Thirty years.	
147.—Against a depositary or pawnee to recover moveable property deposited or pawned.	Thirty years ...	The date of the deposit or pawn, unless where an acknowledgment of the title of the depositor or pawnor, or of his right of redemption, has, before the expiration of the prescribed period, been made in writing, signed by the depositary, or pawnee, or some person claiming under him, and, in such case, the date of the acknowledgment.
	Part X.—Sixty years.	
148.—Against a mortgagee to recover possession of immoveable property mortgaged.	Sixty years ...	The date of the mortgage, unless where an acknowledgment of the title of the mortgagor or of his right of redemption has, before the expiration of the prescribed period, been made in writing, signed by the mortgagee or some person claiming under him, and, in such case, the date of the acknowledgment: Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burmah, which have been executed before the first day of May, 1863, shall be governed by the rules of limitation in force in that Province immediately before the same day.

SECOND SCHEDULE.—*(Continued.)*

FIRST DIVISION: SUITS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
	Part X.—Sixty years,—contd.	
149.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged.	Sixty years ...	When any part of the principal or interest was last paid on account of the mortgage debt.
150.—Any suit in the name of the Secretary of State for India in Council.	Ditto ...	When the right to sue accrued.

SECOND DIVISION: APPEALS.

Description of appeals.	Period of limitation.	Time when period begins to run.
151.—Under the Code of Civil Procedure to the Court of a District Judge.	Thirty days ...	The date of the decree appealed against.
152.—Under the Code of Criminal Procedure to any Court other than the High Court.	Ditto ...	The date of the sentence or order appealed against.
153.—Under the same Code to the High Court.	Sixty days ...	Ditto.
154.—Under the Code of Civil Procedure to the High Court.	Ninety days ...	The date of the decree appealed against.

THIRD DIVISION: APPLICATIONS.

Description of application.	Period of limitation.	Time when period begins to run.
155.—Under the Code of Civil Procedure to set aside an award.	Ten days ...	When the award is submitted to the Court and notice of the submission has been given to the persons and in manner prescribed by the High Court.
156.—By a plaintiff for an order to set aside a judgment by default.	Thirty days ...	The date of the judgment.

SECOND SCHEDULE—(*Continued.*)

THIRD DIVISION: APPLICATIONS—Continued.

Description of application.	Period of limitation.	Time when period begins to run.
157.—By a defendant for an order to set aside a judgment *ex parte.*	Thirty days ...	The date of executing any process for enforcing the judgment.
158.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property, and disputing the right of the decree-holder to be put into possession.	Ditto ...	The date of the dispossession.
159.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale.	Ditto ...	The date of the sale.
160.—Complaining of resistance or obstruction to delivery of possession of immoveable property sold in execution of a decree, or of dispossession in the delivery of possession to the purchaser of such property.	Ditto ...	The date of the resistance, obstruction or dispossession.
161.—For re-admission of an appeal dismissed for want of prosecution.	Ditto ...	The date of the dismissal.
162.—For leave to appeal as a pauper	Ninety days ...	The date of the decree appealed against.
163.—To a High Court for the admission of a special appeal.	Ditto ...	Ditto.
164.—For a review of judgment ...	Ditto ..	The date of the decree.
165.—Under the Code of Civil Procedure, Section 327, that an award be filed in Court.	Six months ...	The date of the award.
166.—For the execution of a decision (other than a decree or order passed in a regular suit or an appeal) of a Civil Court or of a Revenue Court.	One year ...	The date of the decision or of taking some proceeding to enforce or keep in force the decision.

SECOND SCHEDULE—(*Continued.*)

THIRD DIVISION: APPLICATIONS—Continued.

Description of application.	Period of limitation.	Time when period begins to run.
167.—For the execution of a decree or order of any Civil Court not provided for by No. 169.	Three years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review, or (where the application next hereinafter mentioned has been made) the date of applying to the Court to enforce, or keep in force, the decree or order, or (where the notice next hereinafter made has been issued) the date of issuing a notice under the Code of Civil Procedure, Section 216, or (where the application is to enforce payment of an instalment which the decree directs to be paid at a specified date) the date so specified.
168.—For the execution of any such decree or order of which a certified copy has been registered under the Indian Registration Act.	Six years ...	The date of the decree or order, or (where there has been an appeal) the date of the final decree or order of the Appellate Court, or (where there has been a review of judgment) the date of the decision passed on the review.

SECOND SCHEDULE—(*Continued.*)

THIRD DIVISION: APPLICATIONS—Continued.

Description of suit.	Period of limitation.	Time when period begins to run.
169.—To enforce a judgment, decree or order of any Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction.	Twelve years ...	When a present right to enforce the judgment, decree or order accrued to some person capable of releasing the right: Provided that when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be.

ACT No. X. OF 1871.

THE EXCISE ACT, 1871.

1. Short title. Local extent. Commencement of Act.
2. Repeal of Acts.
3. Interpretation clause.
4. Saving of Act No. XVI of 1863.
5. English distilleries not to be constructed or worked without license.
6. Chief Revenue Authority to prescribe rules for regulating English distilleries.
7. Collectors may establish distilleries for country spirits.
8. Chief Revenue Authority may prescribe rules for distilleries.
9. Breweries not to be constructed or worked without license.
10. Sanction to Rules under Sections 6, 8 and 9.
11. Prohibition of unlicensed manufacture of country spirits.
12. English spirits and fermented liquor not to be sold without license.
13. Fee for wholesale license.
14. Fee for retail license. What to be held a retail sale.
15. Country spirits and drugs not to be sold without license.
16. Tári to be deemed a fermented liquor.
17. Proviso.
18. Supply of opium to licensed vendors.
19. Sale of more than specified quantities of country spirits, &c., prohibited.

20. Restriction of sale of ganja and bhang.
21. Rate of duty to be levied on English spirits.
22. Spirits from foreign territory subject to duty.
23. Duty on country spirits manufactured at distilleries established by Collector.
24. Duty on retail sale of country spirits, &c,
25. Power to frame out duties.
26. Tenders for farm.
27. Farmer to make arrangements with local manufacturers and vendors.
28. List of licenses granted by farmer to be filed Restrictions as to grant of licenses.
29. Lease may be cancelled. Compensation to farmers in certain cases.
30. Recovery of arrears of tax or duty by farmers.
31. Certain licensees to execute counterpart and furnish security.
32. Duration and renewal of license.
33. Chief Revenue Authority to regulate form of license.
34. Powers to recall license.
35. Surrender of license.
36. Collectors of Land Revenue to have charge of Excise.
37. Power to appoint Commissioners of Excise.
38. Collectors may appoint Excise officers.
39. Tahsildars may be Excise Darogahs.
40. Power to regulate supply of tári and intoxicating drugs to licensed vendors.
41. Recovery of arrears of tax or duty.
42. Power of Excise officers to inspect shops.
43. And to arrest persons carrying spirits, &c., liable to confiscation.
44. And to arrest unlicensed distillers, &c. And to seize stills.
45. And to search on information of illicit manufacture or possession.
46. Police, Customs, and Revenue officers may exercise powers of Excise officers.
47. Excise officer to report arrests, &c., and to take person arrested to Magistrate.
48. Collector may issue warrant of arrest in certain cases.
49. Collector may issue search-warrant. Special warrant authorising search between sunset and sunrise.
50. Procedure after arrest or seizure.
51. Police to assist Excise officers.
52. For constructing or working a distillery without license.
53. For non-observance of rules prescribed by Chief Revenue Authority.
54. For removing spirituous liquors without payment of duty.
55. For irregular re-land of spirituous liquors.
56. For working brewery without license.
57. For refusing to produce license. For breach of license.
58. For sale in contravention of license. Proviso.
59. For permitting drunkenness, &c., in shop.
60. For conveying country spirits from distillery without pass, &c.
61. For contravening rules prescribed by Chief Revenue Authority.
62. For illicit manufacture or sale of country spirits, &c. Proviso.
63. For illegal possession of country spirits, &c. Proviso.
64. Exceptions as to tári, ganja and bhang.
65. For possessing more opium than five tolas weight.
66. Exception in favour of opium-cultivators, travellers and horse-dealers. For possession of excessive quantity of opium by travellers, &c.
67. For sale of adulterated opium, &c.
68. For conniving at illicit manufacture or sale of spirits, &c.
69. On Police neglecting to assist.
70. For maliciously giving false information.
71. For vexatious search or seizure.
72. On Excise officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.
73. For conniving at escape of persons arrested, &c.
74. Adjudication of penalties and seizures.
75. Procedure in cases other than those of persons sent in custody by a Collector or Excise officer.
76. Punishment on second or subsequent conviction.
77. Confinement in civil jail.
78. Disposal of confiscated goods.
79. Disposal of fines, &c., as rewards. Rewards where no fine is realized.
80. Fines undisposed of to belong to Government. Special rewards to informers.
81. Rules respecting manufacture and sale of spirits, &c., in Military Cantonments.
82. Mode of making arrest or search within Military Cantonments.
83. Drawback on exportation.
84. No drawback on spirits exported to British Indian ports or shipped as stores.
85. Recovery of sums due under bond.
86. Appeals from orders and sentences under this Act.
87. Powers vested in officers of Opium Department.
88. Legalization of levy of Excise duties in Oudh. Indemnity-clause.
SCHEDULE—(Acts repealed.)

An Act to consolidate and amend the laws relating to the Excise Revenue in Northern India, British Burmah and Coorg.

Preamble. Whereas it is expedient to consolidate and amend the laws in force in Northern India, British Burmah and Coorg, relating to the manufacture of spirits, the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. I. This Act may be called "The Excise Act, 1871."

Local extent.

It extends to the territories respectively under the Government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burmah and Coorg.

Commencement of Act.

It shall come into force in the North-Western Provinces, the Punjab, Oudh and the Central Provinces on the passing thereof, and in British Burmah and Coorg on the first day of April 1872.

Repeal of Acts.

II. The Acts mentioned in the schedule hereto annexed are repealed.

Interpretation Clause.

III. In this Act,

"Chief Revenue Authority" means,—

in the territories subject to the Lieutenant-Governor of the North-Western Provinces, the Board of Revenue,

in the Punjab and Oudh, the Financial Commissioner, and

in the Chief Provinces, British Burmah and Coorg, the Chief Commissioner;

"Collector."

"Collector" includes any Revenue Officer in independent charge of a district and a Superintendent of Excise Revenue:

"Magistrate."

"Magistrate" means any Magistrate exercising powers not less than those of a Subordinate Magistrate of the first class;

"Country spirit.

"Country spirit" means any spirit made by the native process of distillation:

"Intoxicating drugs."

"Intoxicating drugs" includes ganja, bhang, charas, opium and every preparation and admixture of the same.

Saving of Act No. XVI of 1863.

IV. Nothing herein contained affects Act No. XVI of 1863 *(to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry.)*

II.—Manufacture of Spirits and Fermented Liquor.

English distilleries not to be constructed or worked without license.

V. No person shall construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the hand of the Collector of the District in which such distillery is situated.

Chief Revenue Authority to prescribe rules for regulating English distilleries.

VI. The Chief Revenue Authority may from time to time make rules relative to—

(*a*) the granting of licenses under Section 5,

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work,

(*c*) the size and description of the stills,

(*d*) the passing and storing of the spirits,

(*e*) the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein;

(*f*) the furnishing of statements and lists of such spirits, and of the stills, coppers, casks and other utensils used in the distillery.

VII. The Collector, with the sanction of the Chief Revenue Authority, may—

Collectors may establish distilleries for country spirits.

(*a*) establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process,

(*b*) from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery, and

(*c*) discontinue any distillery so established.

VIII. The Chief Revenue Authority may from time to time make rules relative to

Chief Revenue authority may prescribe rules for distilleries.

(*a*) the management of distilleries established under Section 7,

(*b*) the conditions on which spirits may be manufactured in the said distilleries, and

(*c*) the passes to be issued for the conveyance of such spirits to the shops of the vendors.

Breweries not to be constructed or worked without license.

IX. No person shall construct or work a brewery, or manufacture any description of malt liquor, without a license from the Collector.

The Chief Revenue Authority may from time to time make rules relative to the granting of licenses for constructing and working breweries.

Sanction to rules under Sections 6, 8 and 9.

X. Except in the Central Provinces, British Burmah and Coorg, the sanction of the Local Government is required to validate rules under Sections 6, 8 and 9.

Prohibition of unlicensed manufacture of country spirits.

XI. No person shall manufacture spirits after the native process except under license from the Collector.

III.—Sale of Spirits, Fermented Liquor and Intoxicating Drugs.

English spirits and fermented liquor not to be sold without license.

XII. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Fee for wholesale license.

XIII. Persons taking out licenses, for the wholesale vend of spirituous and fermented liquors, as aforesaid, shall pay, for every such license, such sum as the Chief Revenue Authority from time to time prescribes.

The license shall be current only during the official year, and in the district in which it is granted.

But travelling merchants may obtain, under such rules and restrictions as the Chief Revenue Authority from time to time prescribes, a general license authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district.

Fee for retail license.

XIV. Persons taking out licenses for the retail sale of spirituous and fermented liquors, as aforesaid, shall pay for every such license such fee or tax as the Chief Revenue

Authority fixes, and such fee or tax shall be payable at such periods as the said Authority directs.

What to be held a retail sale

Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail sale.

Country spirits and drugs not to be sold without license.

XV. No person shall sell spirits manufactured by the native process, or tári or pachwáí, or any intoxicating drug, except under license from the Collector.

Tári to be deemed a fermented liquor.

XVI. All the provisions relating to the sale or possession of fermented liquors contained in the following sections apply to the sale or possession of tárí, whether in a fermented state or otherwise; and all tárí, both fresh and fermented, is included in the exprssion " fermented liquors" as used in the following sections.

Proviso.

XVII. Provided that the Local Government may suspend the operation of all the provisions relating to tárí contained in this Act with respect to any district in which the consumption of tárí in a fermented state is inconsiderable; and thereupon tárí may be possessed and sold without license in such district, notwithstanding anything contained in this Act.

Supply of opium to licensed vendors.

XVIII. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Chief Revenue Authority from time to time directs: and no other description of opium shall be sold by such vendors.

The Local Government may, from time to time, by order, exempt any district from the operation of this section.

Sale of more than specified quantities of country spirits, &c., prohibited.

XIX. Except for the supply of licensed vendors, or under a special order from such officer as the Local Government appoints in this behalf, country spirits, tárí, and pachwáí, and intoxicating drugs shall not be sold in larger quantities than are hereunder specified—

country spirits, one ser;

tárí or pachwáí, four sers;

ganja or bhang, or any preparation or admixture thereof, one quarter of a ser;

charas or opium, or any preparation or admixture thereof, five tolas weight;

And the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Act.

Restrictions of sale of ganja and bhang.

XX. No cultivator of the plants producing ganja or bhang shall sell any ganja or bhang to any one other than (*a*) a person licensed under Section 15 to sell the same or (*b*) a person duly authorised to purchase the same by pass or license from the Collector.

IV.—Duties.

Rate of duty to be levied on English spirits.

XXI. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of three rupees the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit.

No spirit shall be removed from any such distillery or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided.

For all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify

(*a*) the quantity and strength of the spirit,

(*b*) the place of its destination,

(*c*) the person to whom it is consigned, and

(*d*) whether the duty has been paid or secured by bond.

Nothing in the former part of this section applies to British Burmah.

Spirits from foreign territory subject to duty.

XXII. Spirituous liquors manufactured at any place in India beyond the limits of British India, shall, on passing such limits subject to this Act, be charged with the duty prescribed for proof-spirits in Section 21:

and any person found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding 200 rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Duty on country spirits manufactured at distilleries established by Collector.

XXIII. A duty shall be levied on spirits manufactured in distilleries established under Section 7 at such rate as the Chief Revenue Authority, with the sanction of the Local Government, may from time to time prescribe.

Duty on retail sale of country spirits, &c.

XXIV. Whenever a license for the retail sale of country spirits, tárí, pachwáí, or intoxicating drugs, is granted under this Act, the Collector may demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed by the Chief Revenue Authority.

Such tax or duty shall be specified in the license, and shall be payable at such periods as the said Authority may direct.

The Collector may grant special licenses for the sale of unfermented tárí only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate for each license to be fixed from time to time by the Chief Revenue Authority; and the vendors shall not be subject to any other tax or duty in respect of such sale.

V.—Farm of Duties.

Power to farm out duties.

XXV. The Collector may, with the sanction of the Chief Revenue Authority, let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any district or division of a district.

Tenders for farm.

XXVI. The Chief Revenue Authority may prescribe rules—

(*a*) for the invitation and acceptance of tenders for such farms,

(*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers, and

(*c*) as to the form and conditions of the lease.

Any breach of such conditions shall render the lease liable to annulment.

Farmer to make arrangements with local manufacturers and vendors.

XXVII. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm;

And all the fines and forfeitures hereinafter prescribed, for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

List of licenses granted by farmer to be filed.

XXVIII. Every such farmer shall file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Chief Revenue Authority.

Restrictions as to grant of licenses.

The Collector, with the sanction of the said Chief Revenue Authority, may, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as he thinks fit.

Lease may be cancelled.

XXIX. The Collector may, with the sanction of the Chief Revenue Authority, cancel any lease granted under this Act; or may within the period of the lease, impose any new restriction on the farmer.

Compensation to farmers in certain cases.

If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he sustains thereby as the Chief Revenue Authority thinks fit.

Recovery of arrears of tax or duty by farmers.

XXX. Every farmer of Excise revenue may use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorised vendor, as may be lawfully used by zamíndárs and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

VI.—Licenses.

Certain licenses to execute counterpart and furnish security.

XXXI. Every person taking out a license for the manufacture of country spirits or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

Durations and renewal of licenses.

XXXII. Unless otherwise especially authorized by the Chief Revenue Authority, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year.

But every person holding a license, who may intend not to renew it, shall give notice of his intention to the Collector at least fifteen days before the year expires.

If such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into, by every such person, shall remain in force as if the said license and engagement had been formally renewed.

Chief Revenue Authority to regulate form of license.

XXXIII. The Chief Revenue Authority may regulate the form and conditions of all licenses granted under this Act.

Power to recall license.

XXXIV. The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence.

If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or, if notice be not given, shall make such further compensation for default of notice as the Commissioner or Chief Revenue Authority directs.

Surrender of license.

XXXV. Any licensed retail vendor may surrender his license on giving one month's previous notice to the Collector, and paying such fine not exceeding the amount of the license fees for six months as the Collector may adjudge.

If the Collector is satisfied that there is a sufficient reason for resigning a license, he may remit the fine so prescribed.

VII.—Powers of Officers.

Collectors of Land Revenue to have charge of Excise.

XXXVI. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Chief Revenue Authority.

But the Local Government may appoint any other person to be Superintendent of Excise Revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority conferred by this Act on the Collector of Land Revenue; and the Collector of Land Revenue shall cease to exercise such powers and authority in such district or place during the continuance of such appointment.

Power to appoint Commissioners of Excise.

XXXVII. The Local Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the Excise revenue in any district or districts; and when such appointment is made the Commissioner of Excise shall exercise within such District or Districts the powers and authority conferred by this Act on Commissioners of Revenue, and the Commissioners of Revenue shall cease to exercise such powers and authority in the said District or Districts during the continuance of such appointment.

Collectors may appoint Excise Officers.

XXXVIII. Collectors may appoint dároghas, jamadárs, peons, surveyors, gaugers, and other officers, for the collection of the Excise revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled Excise Officers.

Tahsíldárs may be Excise dároghas.

XXXIX. In districts where there are tahsíldárs and other local officers for the collection of the land revenue, the office of Excise dárogha may be united with that of tahsíldár, or any of such local officers, and the said officers, together

with the officers subordinate to them, shall be deemed to be Excise officers within the meaning of this Act.

Power to regulate supply of tárí and intoxicating drugs to licensed vendors.

XL. The Chief Revenue Authority may regulate the mode in which tárí shall be supplied to licensed vendors of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganja, bhang, or charas for the supply of the licensed vendors of those drugs.

Such Authority may also place the cultivation, preparation, and store of such drugs under such supervision as may be deemed necessary to secure the duty leviable thereon.

Recovery of arrears of tax or duty.

XLI. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act,

or any arrear due from any farmer of Excise revenue,

by distress and sale of the moveable property of the person from whom the arrear is due or of his surety, or by any other process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Power of Excise officers to inspect shops.

XLII. Any Excise officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor carries on the manufacture of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

And to arrest persons carrying spirits, &c., liable to confiscation.

XLIII. Any Excise officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act;

and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them;

and may also arrest the person in whose possession such liquors or drugs are found.

And to arrest unlicensed distillers, &c.

XLIV. Any Excise officer above the rank of a jamadar of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs,

And to seize stills.

and may seize such still with the materials for working it, and all such liquors and drugs.

And to search on information of illicit manufacture or possession.

XLV. Whenever any Excise officer above the rank of a jamadar of peons, has reason to believe, from information given by any person (which information shall be taken down in writing) that spirits are unlawfully manufactured,

or that any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any house, boat, or other place,

such officer may, between sunrise and sunset (but always in the presence of an officer of Police not being under the grade of a jamadar), enter into any such house, boat or place,

and in case of resistance may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs;

and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

Police, Customs and Revenue officers may exercise powers of Excise officer.

XLVI. The powers of seizure, search, and arrest, given to Excise officers by the three last preceding sections, may, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be exercised also by the officers of the Police, Customs, and Revenue Departments according to their respective grades.

And the Local Government may confer on the officers of those departments, or of any of them, like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description and the arrest of persons found in possession thereof.

All such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be deemed to be Excise officers within the meaning of this Act.

Excise officer to report arrests, &c.

XLVII. Whenever an Excise officer arrests any person, or seizes any still, or any liquors or drugs liable to confiscation under this Act,

or enters any house, boat, or place for the purpose of searching for any such illicit articles,

and to take person arrested to Magistrate.

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest or seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch to the Magistrate for trial or adjudication.

Collector may issue warrant of arrest in certain cases.

XLVIII. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue search warrant.

XLIX. The Collector may issue his warrant for the search of any house, boat, or place, in which, upon any of the grounds mentioned in the last preceding section, he has reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed.

Such warrant may be executed by any officer above the rank of a jamadar of peons, at the time and in the manner prescribed in Section 45.

Special warrant authorising search between sunset and sunrise.

Whenever the Collector thinks that the search should be made between sunset and sunrise on any particular day, he shall issue a warrant specially authorising the search to be so made. Such warrant may be executed by any officer above the rank of a jamadar of peons, in the manner prescribed in Section 45, and shall cease to be in force at sunrise on the day next following.

Procedure after arrest or seizure.

L. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Police to assist Excise officers.

LI. All Police officers are required to aid the Excise officers in the due execution of this Act, upon notice given or request made by such officers.

VIII.—Penalties.

For constructing or working a distillery without license.

LII. Whoever constructs or works a distillery after the English method, without a license from the Collector, shall for every such offence be punished with fine not exceeding 1,000 rupees;

and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

For non-observance of rules prescribed by Chief Revenue Authority.

LIII. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who omits to furnish any notice or any statement or list required by the rules prescribed by the Chief Revenue Authority under Section 6, or wilfully does anything in contravention of the said rules, shall for every such offence be punished with fine not exceeding 200 rupees;

and if any such offence be committed a second time with respect to the same distillery, the Collector may withdraw the license granted for the working of such distillery.

For removing spirituous liquors without payment of duty.

LIV. Whoever removes, or attempts to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which the Collector has not issued a pass, shall for every such offence be punished with fine not exceeding 1,000 rupees,

and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the Collector may withdraw the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed.

For irregular re-land of spirituous liquors.

LV. Whoever re-lands, or attempts to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall for every such offence be punished with fine not exceeding 500 rupees;

and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

For working brewery without license.

LVI. Whoever constructs or works a brewery, or manufactures malt liquor, without a license, shall for every such offence be punished with fine not exceeding 500 rupees.

For refusing to produce license.

For breach of license.

LVII. Every person licensed to manufacture country spirits or to sell spirituous or fermented liquors or intoxicating drugs, who fails to produce his license on the demand of any Excise officer, or who commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall for every such offence be punished with fine not exceeding 50 rupees.

For sale in contravention of license.

LVIII. Every licensed retail vendor, who sells any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by this Act, and every licensed wholesale vendor who makes a retail sale, shall for every such offence be punished with fine not exceeding 200 rupees.

Proviso.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

For permitting drunkenness, &c., in shop.

LIX. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for liquors or drugs, shall for every such offence be punished with fine not exceeding 200 rupees.

For conveying country spirits from distillery without pass, &c.

LX. Whoever conveys or attempts to convey any country spirits from a distillery established under Section 7 without a pass, or exceeding the quantity for which a pass has been granted,

or introduces or attempts to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector,

shall for every such offence be punished with fine not exceeding 500 rupees.

For contravening rules prescribed by Chief Revenue Authority.

LXI. Whoever wilfully contravenes any rule prescribed by the Chief Revenue Authority for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding section, shall for every such offence be punished with fine not exceeding 50 rupees.

For illicit manufacture or sale of country spirits, &c.

LXII. Every person other than a licensed manufacturer who manufactures any country spirits,

and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who sells any spirituous or fermented liquors, or intoxicating drugs,

and every person authorized to supply licensed vendors, who sells any such liquors or drugs to any person other than a licensed vendor,

shall for every such offence be punished with fine not exceeding 500 rupees.

Proviso.

Nothing in this section or in Section 12 applies to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon his quitting a station or after his decease.

For illegal possession of country spirits, &c.

LXIII. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who has in his possession any larger quantity of country spirits, or tárí, or pachwáí, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of Section 19,

or transports by land or by water, or has in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf,

shall for every such offence be punished with fine not exceeding 200 rupees;

and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Proviso.

Provided that nothing in this section extends to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

Exceptions as to tárí, ganja and bhang.

LXIV. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tárí the produce of the date tree, when supplied or used for the manufacture of gúr or molasses; and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale and possession of ganja or bhang by the cultivators of the plants which produce those drugs respectively.

Every such cultivator selling ganja or bhang in breach of the prohibition contained in Section 20 shall for every such offence be punished with fine not exceeding 500 rupees.

For possessing more opium than five tolas weight.

LXV. Every person, other than a licensed vendor, who has in his possession a greater quantity of opium than five tolas weight, shall for every such offence be punished with fine not exceeding 500 rupees, unless the opium found in his possession exceeds the weight of thirty-one sers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen rupees the ser for all the opium so found in excess of that weight; and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Exception in favour of—

LXVI. Nothing in Section 65 applies to the persons and circumstances hereinafter specified, namely:—

Opium cultivators.

(*a*) Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy and the delivery of the produce to the opium agent.

Travellers.

(*b*) Travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two sers, or, in British Burmah, five tolas, the produce of such foreign States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or barter.

And horse dealers.

(c) Dealers in horses travelling with strings of horses from beyond the limits of British India, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolas weight for each horse.

For possession of excessive quantity of opium by travellers, &c.

If opium be found in the possession of any such traveller, visitant, or dealer in horses in excess of the quantities above specified, such excess shall be liable to confiscation; but the person in whose possession it may be found shall not be subject to any further penalty.

For sale of adulterated opium, &c., by licensed vendors.

LXVII. Every licensed vendor, who sells or offers for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which he has taken out a license,

or, who, except in districts exempted from the operation of Section 18, sells or has in his possession any opium other than the opium supplied to him from the Government stores,

shall for every such offence be punished with fine not exceeding 500 rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

For conniving at illicit manufacture or sale of spirits, &c.

LXVIII. Every proprietor, farmer, tahsíldár, gumáshta, or other manager of land, who authorizes or connives at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall for every such offence be punished with fine not exceeding 500 rupees.

On police neglecting to assist.

LXIX. Any Police officer who, without lawful excuse, neglects or refuses to assist as aforesaid, and any dárogha or other officer in charge of a Police station, who, on application made by an Excise officer under Section 45, fails to attend a search himself, or to depute a subordinate officer not being below the grade of a jamadar, shall for every such offence be punished with fine not exceeding 500 rupees.

For maliciously giving false information.

LXX. Whoever maliciously gives false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procures that such person be arrested or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall for every such offence be punished with fine exceeding 500 rupees, or with imprisonment for a term not exceeding six months, or with both.

Such fine or any part thereof may be paid to the person aggrieved.

For vexatious search or seizure.

LXXI. Any Excise officer who without reasonable ground of suspicion, searches or causes to be searched any house, boat, or other place,

or vexatiously and unnecessarily seizes the moveable property of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act,

or vexatiously and unnecessarily arrests any person,

or commits any other excess not required for the execution of his duty, shall for every such offence be punished with fine not exceeding 500 rupees.

Such fine, or any part thereof, may be paid to the person aggrieved.

On Excise officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate.

LXXII. Any Excise officer who neglects to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter or delays carrying to the Magistrate or Collector, as the case may be, any person arrested or any illicit articles seized under this Act, shall for every such offence be punished with fine not exceeding 200 rupees.

For conniving at escape of persons arrested, &c.

LXXIII. Any Excise officer unlawfully releasing or conniving at the escape of any person arrested under this Act, or conniving at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of the license, or acting in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Excise revenue defrauded;

and any officer invested with local jurisdiction, authorizing or conniving at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control,

shall for every such offence be punished with fine not exceeding 500 rupees.

Adjudication of penalties and seizures.

LXXIV. All fines leviable for offences against this Act, and all seizures of goods liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Excise officer:

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under Sections 59, 69, 70, 71, 72, or 73.

Procedure in cases other than those of persons sent in custody by a Collector or Excise officer.

LXXV. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Excise officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

The rules contained in the Code of Criminal Procedure, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall apply to trials under this Act:

Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within six months after the commission of the offence to which the complaint or information refers.

Punishment on second or subsequent conviction.

LXXVI. Whenever any person is convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty provided for such offence, to imprisonment for a term not exceeding six months.

A like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Confinement in civil jail.

LXXVII. Every person imprisoned for an offence under Section 59, 69, 70, 71, 72 or 73 shall be confined in the criminal jail, and every person imprisoned for an offence under any other section shall be confined in the civil jail.

Disposal of confiscated goods.

LXXVIII. All things confiscated under this Act, except opium, shall be disposed of by the Collector by public sale.

Opium so confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be sent to the Government factories, or otherwise disposed of in such manner as the Chief Revenue Authority directs. If declared to be unfit for use, it shall be immediately destroyed.

Disposal of fines, &c., as rewards.

LXXIX. One-half of all fines levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each ser shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender.

The other half of such fines and forfeitures, and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each ser shall given to the informer.

Rewards where no fine is realized.

If in any case the fine or forfeiture is not realized, the Chief Revenue Authority may grant such reasonable reward, not exceeding 200 rupees, as may seem fit; and such Authority may direct by general order what classes of Excise officers shall receive rewards, and what classes shall have no title to share therein.

Fines undisposed of to belong to Government.

LXXX. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government.

Special rewards to informers.

But the Chief Revenue Authority may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

IX.—Military Cantonments.

Rules respecting manufacture and sale of spirits, &c., in Military Cantonments.

LXXXI. Within the limits of any Military Cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirits, or for the sale of spirituous and fermented liquors, shall be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, unless with the knowledge and consent of the Commanding Officer;

and upon his requisition any license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately withdrawn.

Mode of making arrest or search within Military Cantonments.

LXXXII. In all other respects, the foregoing provisions of this Act shall have effect within such limits or distance:

Provided that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible:

Provided also that nothing herein contained shall affect the provisions of Act No. XXII of 1864 *(to make provision for the Administration of Military Cantonments.)*

X.—Miscellaneous.

Drawback on exportation.

LXXXIII. A drawback of the duty levied under Part IV of this Act on spirits manufactured after the English method, and exported by sea to Aden or any port not situate in British India, shall be allowed by the Collector of Customs at the port of exportation:

Provided that the exportation be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, be accompanied by the pass in which such payment is certified.

The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge.

The quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner.

No drawback on spirits exported to British Indian ports or shipped as stores.

LXXXIV. No drawback shall be allowed on spirits exported to any port in British India except Aden, or on spirits shipped as stores.

Recovery of sums due under bond.

LXXXV. Any sum remaining due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process for the time being in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Appeals from orders and sentences under this Act.

LXXXVI. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner under the rules in force relative to appeals from the orders of Collectors.

Powers vested in officers of Opium Department.

LXXXVII. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers conferred by this Act on Collectors, so far as the same relate to the suppression of illegal dealings in opium;

and the officers of the Opium Department shall exercise the powers conferred by this Act on Excise officers for the seizure of illicit opium and the arrest of persons found in possession thereof; and in respect to such seizures and arrests, shall be deemed to be Excise officers within the meaning of this Act.

Legalization of levy of Excise duties in Oudh.

LXXXVIII. All duties heretofore levied in Oudh on spirituous and fermented liquors or intoxicating drugs, shall be deemed to have been levied in accordance with law.

Indemnity-clause.

All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

SCHEDULE.

(See Section 2)

Number and year.		Title of Act.
XXI of 1856	...	An Act to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.
XXIII of 1860	...	An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)
X of 1864	...	An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)
XXVIII of 1864	...	An Act to provide for the extension of Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal) to the provinces under the control of the Lieutenant-Governor of the Punjab.
XXIII of 1868	...	An Act to give validity to certain Abkaree Rules in British Burmah.

ACT No. XI OF 1871.

An Act to abolish the Financial Commissionership of Oudh.

Preamble.

Whereas it is expedient to abolish the office of Financial Commissioner of Oudh; It is hereby enacted as follows:—

Abolition of Financial Commissionership.

I. The said office is hereby abolished.

Power to invest certain officers with jurisdiction of Financial Commissioner.

II. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, invest the Chief Commissioner of Oudh, the Judicial Commissioner of Oudh, or any Commissioner in that Province, with all or any of the powers which if this Act had not been passed, the said Financial Commissioner might have exercised under any law, rule or order having the force of law.

Transfer of pending appeals.

III. All appeals now pending in the Court of the said Financial Commissioner shall be transferred to such Courts as the Governor General in Council may, by such notification as aforesaid, direct in this behalf.

All such appeals shall be disposed of as if they had been originally presented in the Court to which they are so transferred, and the orders of such Court shall have the same effect as if they had been made by the said Financial Commissioner, and as if this Act had not been passed.

Disposal of such appeals.

IV. Act No. XXXVII of 1867 *(for transferring appeals from the Court of the Financial, to the Court of the Judicial, Commissioner of Oudh, and for other purposes)* is hereby repealed.

Repeal of Act No. XXXVII of 1867.

V. Act No. XIX of 1868 *(to consolidate and amend the law relating to rent in Oudh)*, Sections 84, 93, 94 and 98, shall be construed as if, for "Financial Commissioner," the words "Judicial Commissioner" were substituted.

Amendment of Act No. XIX of 1868.

Act No. XII of 1871.

THE INDIAN INCOME TAX ACT.

1. Short title. Local extent. Commencement and continuance of Act.
2. Repeal of Act XVI of 1870. Proviso.
3. Interpretation clause.
4. Exemptions from Act.
5. Power to exempt from Act.
6. Duties on offices.
7. Exemption of incomes less than Rs. 62-8-0 per mensem.
8. Deduction in case of Government officials and pensioners.
9. Deduction in case of servants and pensioners of Companies and Municipalities. Payment to Government. Indemnity. Annual return by Treasurer, &c.
10. Subsequent deduction of duty omitted to be levied.
11. Shipping Companies. Other Companies. Statement of result of accounts.
12. Annual return of nett profits.
13. Power to require officers of Companies to attend and produce accounts.
14. Indemnity.
15. Duty on interest.
16. Deduction and payment of duty. Proviso.
17. Duty on income not charged under Parts II, III, and IV.
18. Trustees, guardians and Committees of incapacitated persons to be charged. Non-residents charged in names of their agents.
19. Trustees or agents of persons incapacitated or non-resident to furnish statements of income.
20. Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.
21. Power to retain duties charged on trustees, &c. Indemnity.
22. Owners of lands and houses occupying them. Rules for assessing income from land.
23. Notice requiring returns.
24. Return how made.
25. Lists of lodgers and employees.
26. Collector to determine persons chargeable.
27. Assessment to be made on past year's income. Assessment when assessee becomes chargeable within year.
28. Notice to persons chargeable.
29. Officer to give receipt.
30. Contents of receipt.
31. Petition against assessment under Part V. Proviso. Form and verification of petition.
32. Hearing of petition.
33. Appeal to Commissioner from order under Section 13 or Section 32. Documents to accompany appeal. Copies of petition and order exempt from fees. Return of fees and excess.
34. Power to summon persons to give necessary information.
35. Power to issue fresh notice.
36. Tax when payable. Payment by instalments.
37. Recovery under Revenue law.
38. Amendment of assessment.
39. Treasurers, &c., failing to make payments or deliver returns. Trustees, &c., failing to deliver statements or declarations.
40. False statement in declaration, list or petition.
41. Prosecution to be at instance of Collector.
42. Sections 193 and 228 of Penal Code to apply to proceedings.
43. Bar of suits in Civil Courts.
44. Exercise of powers of Collector and Commissioner.
45. Service of notices.
46. Power to declare principal place of business. Power to declare residence.
47. Power to prescribe forms and make rules.

SCHEDULE: Form of petition under Section 31.

An Act for imposing duties on Income.

Preamble.

For the purpose of imposing duties on income arising from offices, property, professions and trades; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title.

I. This Act may be called "The Indian Income Tax Act:"

Local extent.

It extends to the whole of British India;

Commencement and continuance of Act.

It shall come into force on the first day of April 1871, and it shall cease to be in force on the thirty-first day of March 1872, except as to taxes then due and penalties incurred thereunder.

Repeal of Act XVI of 1870.

II. On and from the said first day of April 1871, Act XXI of 1870 shall be repealed:

Proviso.

Provided that such Act shall continue in force until the first day of April 1872 as to taxes and penalties due and incurred thereunder.

The reference made in the Court Fees' Act, Schedule II, to the Indian Income Tax Act shall be deemed to be made to this Act.

Interpretation clause.

III. In this Act—unless there be something repugnant in the subject or context—

"Income."

"Income" means income and profits accruing and arising in British India:

"Magistrate."

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class, and includes a Magistrate of Police and a Justice of the Peace.

"Company."

"Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situated in British India or not:

"Person."

"Person" includes a firm and a Hindú undivided family:

"Defaulter."

"Defaulter" includes a Company or firm making default under this Act:

"Collector."

In the case of any firm or of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person or Hindú undivided family chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person or family resides.

Exemptions from Act.

IV. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces who are not in Civil employment, when such pay and allowances do not exceed five hundred rupees per mensem:

or to any moveable or immoveable property solely employed for religious or charitable public purposes.

And no member of a firm or of a Hindú undivided family which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

Power to exempt from Act.

V. The Governor General in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income of any tribe or class of persons in British India.

The Governor General in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India.*

PART II.

Duties on Offices.

Duties on offices.

VI. A duty of two pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship plying to and from British Indian ports, whether on account of himself or another person.

Exemption of incomes less than Rs. 62-8 per mensem.

VII. No income amounting to less than sixty-two rupees eight annas per mensem shall be chargeable under this Part.

Deduction in case of Government officials and pensioners.

VIII. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of claims or other proper officer, and shall be deemed to be a tax paid under this Act.

Deductions in case of servants and pensioners of Companies and Municipalities.

IX. In the case of every person holding a paid employment under, or receiving any annuity or pension from, any Company, or any municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Payment to Government.

Every such Treasurer or other officer shall as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government from time to time directs, the amount of such deductions, and shall be answerable to such Government for such payment.

Indemnity.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this Part.

Annual return by Treasurer, &c.

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the thirtieth day of April next, deliver to the Collector, in such form as may be prescribed by the Governor General in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or Body or Association whose pay or pension or annuity as such amounts to sixty-two rupees, eight annas per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

Subsequent deduction of duty omitted to be levied.

X. Whenever the duty leviable under this Part in any month is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, it shall be deducted from such pay, annuity or pension at some subsequent time of payment.

PART III.

Duties on Profits of Companies.

Shipping Companies.

XI. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee:

Other Companies.

and, in the case of every other Company, pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies for every rupee.

Statement of result of accounts.

and shall prepare, and, on or before the thirtieth day of April next, deliver to the Collector a statement in writing signed by him showing the result of such accounts.

Annual return of nett profits.

XII. If in the case of any Company no such accounts have been made up within the year ending on the thirty-first day of March, 1871, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the thirtieth day of April next, deliver to the Collector a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

Power to require officers of Companies to attend and produce accounts.

XIII. Whenever the Collector has reason to believe that any statement or return mentioned in Section 11 or Section 12 is incorrect or incomplete, he may cause a notice to be served on the Treasurer, Secretary, Agent or Manager by whom such statement or return was delivered, requiring him, on or before a day to be mentioned in the notice, to attend at the Collector's Office and to produce for the inspection of the Collector such of the accounts of the Company as refer to

the year mentioned in Section 11 or Section 12 (as the case may be) and as are in the possession or power of such Treasurer, Secretary, Agent or Manager.

The Collector shall thereupon make an order determining the amount at which the Company shall be assessed under this Part and the day on which such amount shall be paid, and, subject to the provisions hereinafter contained, such sum shall be payable accordingly.

Indemnity.

XIV. Every such Treasurer, Secretary, Agent or Manager is hereby indemnified for all payments made in pursuance of Section 11 or Section 13.

PART IV.

Duties on Interest on Government Securities.

Duty on interest.

XV. A yearly duty of two pies for every rupee shall be levied upon all interest on securities of the Government of India becoming due on or after the first day of April, 1871.

Deduction of duty.

XVI. Every person empowered to pay such interest shall deduct the duty at the place where the interest is paid.

And shall, as soon as may be after making such deduction, pay the same to the credit of the Government of India, or as such Government from time to time directs:

Proviso.

Provided that no such duty shall be deducted from the interest on any such security where the owner thereof produces a certificate signed by the Collector that his annual income, including such interest, is less than seven hundred and fifty rupees.

PART V.

Duties on all other income.

Duty on income not charged under Parts II, III, and IV.

XVII. A yearly duty of two pies for every rupee shall be levied upon all income of seven hundred and fifty rupees per annum or upwards not chargeable under Part II, Part III, or Part IV of this Act.

Trustees, guardians and committees of incapacitated persons to be charged.

XVIII. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic, or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Non-residents charged in names of their agents.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income.

XIX. Every trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statements signed by him, of the amount of the income in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

The Collector shall have power to serve a notice upon any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent, requiring him to deliver on or before a day to be specified in the notice a statement signed by him of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.

XX. Receivers or Managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income officially in their possession or under their control.

Power to retain duties charged on trustees, &c.

XXI. When any trustee, guardian, curator, committee, or agent is assessed under this Act in such capacity;

or when any receiver or manager appointed by any Court, Court of Wards, Administrator General, or Official Trustee, is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver, manager, Court of Wards, Administrator General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Indemnity.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Owners of lands and houses occupying them.

XXII. Owners of lands or houses occupying the same shall be chargeable in respect of the annual value thereof at nine-tenths of the full rent at which such lands or houses are worth to be let for the year.

Rules for assessing income from land.

The Local Government may, with the sanction of the Governor General in Council, prescribe, for the whole or any part of the territories subject to such Local Government, special rules for the assessment of incomes derived from land, at an amount bearing a fixed proportion to the revenue assessed thereon.

All such rules shall be published in the local official Gazette and shall thereupon have the force of law.

Notice requiring returns.

XXIII. In case of every person chargeable under this Part whose annual income is in the Collector's opinion four thousand rupees or upwards, the Collector shall,

and in the case of every other person so chargeable, the Collector may

cause a notice to be served on him requiring him to fill in a return of his income during one year ending on the day of the year immediately preceding the year of assessment on which his accounts have

been usually made up or on the thirty-first day of March, 1871, and to state in such return the period during which such income has actually accrued.

Such notice shall be in the form to be prescribed by the Governor General in Council, and shall specify the day by which the return is to be made, and the place of the Collector's Office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

Return how made.

XXIV. Every person on whom such notice is served shall send to or deliver at the Collector's Office the return duly filled and signed by him.

A declaration shall be added by such person at the foot of the return, *(a)* that the income stated therein is truly estimated on all the sources therein mentioned, *(b)* that it has actually accrued within the period therein stated, and *(c)* that he has no other source of income.

Lists of lodgers and employees.

XXV. Every person, when required so to do by a notice in the form to be prescribed by the Governor General in Council, shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to sixty-two rupees eight annas per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable under this Act to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

Collector to determine persons chargeable.

XXVI. The Collector shall from time to time determine what persons are chargeable under this Part, and the amount at which every such person shall be assessed, and in making such assessment income exempted under Section 7 shall be treated as chargeable under this Part.

Assessment to be made on past year's income.

XXVII. Every such assessment shall be made upon the full amount of such person's income during the year ending on the day of the year next before the year of assessment on which his accounts have been usually made up, or on the thirty-first day of March, 1871.

Assessment when assessee becomes chargeable within year.

In the case of a person for the first time becoming chargeable under this Part within the year of assessment, or within the year next before such year, the assessment shall be made according to an average of his income for such period as the Collector, under the circumstances, directs.

Notice to persons chargeable.

XXVIII. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

(1).—The name and the profession, trade or other source of the income of such person, or in respect of which he is chargeable;

(2).—The year or portion of the year for which the duty is to be paid;

(3).—The place or places, district or districts, where such income accrues; and

(4).—The amount to be paid;

and requiring him within fifteen days from the date of the service either to pay such amount or to apply to the Collector to have the assessment reduced or cancelled.

Officer to give receipts.

XXIX. Such amount shall be paid to the Collector, who shall give a receipt for such payment to the person making the same:

Provided that, if such income accrues at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

XXX. Every such receipt shall specify—

(1).—The name and source or sources of the income of the person by or on whose behalf the duty is paid:

(2).—The year or portion of the year for which the duty is paid:

(3).—The amount paid, and the date of payment; and

(4).—The place or places, district or districts, where the income accrues;

and shall be admissible as evidence of all matters contained therein.

PART VI.

Petitions and Appeals against Assessments.

Petition against assessment under Part V.

XXXI. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed under Part V, may apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled:

Such petition shall ordinarily be presented within fifteen days from the date of the service of the notice mentioned in Section 28. But if the Collector is satisfied that the objector has not received such notice, the petition may be presented within fifteen days from the day on which in the Collector's opinion he became aware of the assessment.

Proviso.

Provided that no person served with a notice under Section 23 shall be entitled to apply by petition under this section unless he has made the return required in such notice on or before the day therein mentioned, or unless he satisfies the Collector that he had a sufficient excuse for not making such return.

Form and verification of petition.

The petition shall be in the form contained in the schedule hereto annexed, or as near thereto as circumstances admit, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

Hearing of petition.

XXXII. The Collector shall fix a day and place for the hearing of the petition, and, on the day and at the place so fixed, or on the day and at the place (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall within fifteen days from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement (as the case may be.)

Appeal to Commissioner from order under Section 13 or Section 32.

XXXIII. Any person dissatisfied with any order under Section 13 or Section 32 may, within fifteen days from the date thereof, on payment of the sum payable under such order, present a petition of appeal to the Commissioner of Revenue of the Division, whose order upon such appeal shall be final.

The time requisite for obtaining a copy of the order shall be excluded in computing the said period of fifteen days,

The order of such Commissioner shall be final. It may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the assessment to an amount to be specified in the decision.

If the order rejects the petition and enhances the assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the order of enhancement.

Documents to accompany appeal.

Copies of petition and order exempt from fees.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, and a copy of the Collector's order thereon and a list of the documents (if any) on which the appellant relies.

Neither of such copies shall be chargeable under the Court Fees' Act.

Return of fees and excess.

When the decision on such appeal is in favour of the petitioner, the value of the fee on his petition of appeal, and (where he has presented a petition to the Collector) the fee on such petition, together with the excess paid by him, or (when the decision is that the petitioner, or the Company which he represents, is not chargeable under this Act) the whole sum so paid shall at once be refunded.

Power to summon persons to give necessary information.

XXXIV. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner, or the Company which he represents, should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the income in question.

Power to issue fresh notice.

XXXV. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income not specified in the receipt granted to him

under Section 29 has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source.

The provisions contained in Sections 28 to 34 (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART VII.

Payment and Recovery of Duties.

Tax when payable.

XXXVI. All duties under this Act, except when they are deducted under Section 8, Section 9, or Section 16, shall be payable on the first day of April, 1871:

Payment by instalments.

Provided that the amount so payable may be paid by two equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in Section 28 upon the person paying the same, and the second instalment on the first day of October next.

Recovery under Revenue law.

XXXVII. In any case of default under this Act, the Collector may, if a notice has been served on the defaulter requiring him to pay, within fifteen days from the date of the service, the amount of the duty or instalment due by him under this Act, either recover a sum not exceeding double the amount as if it were an arrear of land revenue,

or pass an order that a sum not exceeding double the amount of such duty or instalment shall be recovered from such defaulter.

Every such order shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and such order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money and the procedure under the said Code in respect of the following matters:—

(*a*) sales in execution of decrees:
(*b*) arrests in execution of decrees for money:
(*c*) execution of decrees by imprisonment:
(*d*) claims to attached property; and
(*e*) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the moneys mentioned in such order, save that all the powers and duties conferred and imposed by the said Code upon the Court shall be executed by the Collector by whom such order has been made or to whom a copy thereof has been transmitted for execution according to the provisions of the said Code, Section 286:

Provided that, where any person has presented a petition under Section 31, such sum shall not be recoverable from him unless, within fifteen days from the passing of the order thereon, he fails to pay the amount (if any) required by such order.

On the recovery of such sum from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

Amendment of assessment.

XXXVIII. If during or within two months from the end of the year for which any assessment under Part V has been made, the Company or person assessed proves to the satisfaction of the Collector, that the nett profits or income of such Company or person during such year fell short of the sum so assessed, the Collector may cause the assessment made for such year to be amended as the case requires, and if the sum assessed has been paid, may refund the sum overpaid.

In case any Company or person assessed under Part III or Part V ceases to carry on the trade or business in respect whereof such assessment was made, or if any such person dies or becomes insolvent before the end of the year for which the assessment was made, or if any such Company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made,

such Company or person or its or his representative in interest may apply to the Collector within three months after the end of such year, and on proof thereof to his satisfaction, the Collector shall amend the assessment as the case may require, and give such relief to the Company or person charged as is just, and in cases requiring it, the Collector shall refund such sum as has been overpaid on the assessment amended or vacated.

PART VIII.

PENALTIES.

Treasurers, &c., failing to make payments or deliver returns.

XXXIX. Every Treasurer, Secretary, Agent, Manager, or other person failing to make any payment or deduction, or to prepare and deliver in due time any statement or return, or to produce any accounts, required by Sections 9, 10, 11, 12 or 13,

Trustees, &c., failing to deliver statements or declarations.

and every trustee, guardian, curator, committee or agent failing to deliver any statement or declaration required by Section 19,

shall for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the division shall have power to remit wholly or in part any penalty imposed under this section.

False statement in declaration, list or petition.

XL. Whoever makes a statement in any declaration or list made or delivered under Section 24 or 25, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in Section 177 of the Indian Penal Code.

Whoever makes a statement in any petition presented under Section 31 which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Prosecution to be at instance of Collector.

XLI. No person shall be proceeded against for any offence under Section 39 or Section 40 except at the instance of the Collector.

Sections 193 and 228 of Penal Code to apply to proceedings.

XLII. In Sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

PART IX.

MISCELLANEOUS.

Bar of suits in Civil Court.

XLIII. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Exercise of powers of Collector and Commissioner.

XLIV. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local Government from time to time appoints in this behalf.

Service of notices.

XLV. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm or a Hindú undivided family, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer-door of the house in which the person or firm therein named ordinarily dwells or carries on business.

Power to declare principal place of business.

XLVI. When any Company or firm has several places of business in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

Power to declare residence.

When any person has several places of residence in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor General in Council or the Local Government, as the case may be, from time to time appoints in this behalf.

Power to prescribe forms and make rules.

XLVII. The Governor General in Council may from time to time

(*a*) prescribe forms for the returns, notices and lists hereinbefore mentioned,

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and

(c) delegate to any Local Government the powers given by this section, clause (b), so far as regards the territories subject to such Government.

SCHEDULE.

Form of Petition under Section 31.

Stamp
eight annas.

TO THE COLLECTOR OF

The *day of* 187 .

The petition of *A. B.* of

SHEWETH:—

1.—That under the Indian Income Tax Act your petitioner has been assessed in the sum of *twenty-seven* rupees for the year commencing first day of April 187 .

2.—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrues or arise*] for the year ending the 31st day of March last were rupees , as will appear from the documents of which a list is presented herewith.

3.—That such income and profits actually accrued and arose during a period of months and days. [*Here state the exact number of months and days in which the income and profits accrued and arose.*]

4.—That during the said year your petitioner had no other income or profits.

Your petitioner, therefore, prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [*or* that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded.]

(Signed) *A. B.*

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

ACT NO. XIII. OF 1871.

THE INDIAN TARIFF ACT, 1871.

1. Short title. Local extent. Commencement.
2. Duties specified in Schedules A and B to be levied.
3. Goods partially composed of dutiable articles.
4. Saving clause.
5. Construction of Section 27 of Act VI. of 1863.
6. Power to fix value of dutiable goods.
7. Pepper exported by sea from Cochin.
8. Duties on goods crossing foreign European States in Presidencies of Madras and Bombay.
9. Repeal of enactments.

An Act to Consolidate and Amend the Law relating to Customs Duties.

Preamble. Whereas it is expedient to consolidate and amend the law relating to the Duties of Customs on goods imported and exported by sea; It is hereby enacted as follows:—

Short title. I. This Act may be called "The Indian Tariff Act, 1871."

Local extent. It extends to the whole of British India except Aden;

Commencement. And it shall come into force on the passing thereof.

Duties specified in Schedules A and B to be levied.

II. There shall be levied and collected, in every port to which this Act applies, the duties specified in Schedules A and B hereto annexed.

Goods partially composed of dutiable articles.

III. Goods not prohibited to be imported into or used in British India, composed of any article liable to duty as a part or ingredient thereof, shall be chargeable with the full duty payable on such article, or if composed of more than one article liable to duty, then with the full duty payable on the article charged with the highest rate of duty.

Saving clause.

IV. Nothing herein contained affects Act XX. of 1867, or authorizes :—

(1) the levy of import duties on articles (other than salt, opium, and spirits) imported into one port in British India from another:

(2) the levy of export duties on articles exported from one port in British India to another:

(3) the levy of export duties on articles exported by sea to any place other than a foreign port in India, when such articles have been imported by sea into British India.

And, notwithstanding anything herein contained, no opium shall be exported from British India, unless it be covered by a pass granted by an officer appointed in this behalf by the Local Government.

Construction of Section 27 of Act VI. of 1863.

V. Section 27 of the Consolidated Customs' Act shall be construed as if, for the words "for which a specific value has not been fixed by the Local Government with the sanction of the Governor-General of India in Council," the following words were substituted (that is to say) "for which a specific value is not fixed by the Indian Tariff Act, 1871;" but, save as aforesaid, nothing herein contained shall be construed to affect the provisions of the Consolidated Customs' Act.

Power to fix value of dutiable goods.

VI. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, fix for the purposes of this Act the value of any goods exported or imported by sea on which duties of customs are hereby imposed.

Pepper exported by sea from Cochin.

VII. Nothing in Schedule B hereto annexed applies to pepper exported by sea from the port of Cochin. But on all such pepper there shall be levied such duty, not exceeding nine rupees per khandi, as the Governor of Fort Saint George in Council from time to time determines; and at the close of each year, or as soon after as may be convenient, the Collector of Customs at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Government of Travancore and Cochin, in such proportions and in such manner as the said Governor in Council from time to time directs.

Duties on goods crossing foreign European States in Presidencies of Madras and Bombay.

VIII. Duties of customs shall be levied on goods passing by land into or out of Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George or the Presidency of Bombay at the rates prescribed in the Schedules A and B hereto annexed.

Repeal of enactments.

IX. The enactments mentioned in Schedule C hereto annexed, are repealed to the extent specified in the third column of the same schedule.

SCHEDULE A.

IMPORT TARIFF.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
1	Apparel, including Haberdashery, Millinery, &c. ...	*Ad valorem.*	Seven and a half per cent.
2	Arms, Ammunition and Military Stores—		
	Gunpowder, common ...	0 5 per lb.	
	„ sporting ...	1 0 „	
	Fire-arms and parts thereof ...	*Ad valorem.*	
	All other sorts, including Military Accoutrements, Uniforms, &c., but excluding Military and other Regulation Accoutrements and Uniforms imported for private use by persons in the public service ...	*Ad valorem.*	
3	Asphalte— ...	20 0 per ton.	
4	Beads and False Pearls—		
	Beads, China ...	30 0 per cwt.	
	„ Common ...	28 0 „	
	„ Ruby, of all sizes ...	0 12 per lb.	
	„ Seed ...	0 10 „	
	„ Small, Scarlet, and Red ...	0 10 „	
	„ Coral, false, Moorzum ...	0 8 per corge of 2,000 beads.	
	All other sorts of false Corals and Beads ...	*Ad valorem.*	
	Pearls, false, Bajeria ...	5 0 per lakh.	
	„ Boria ...	1 0 per thousand.	
	„ Jouria ...	8 0 per lakh.	
	„ Nathia ...	0 6 per thousand.	
	„ Tachea ...	0 12 „	
	„ Wattanah ...	10 0 per lakh.	
	All other sorts ...	*Ad valorem.*	
5	Cabinet-ware— ...	*Ad valorem.*	
6	Candles, Wax, Composition and other kinds—		
	Candles, Wax ...	1 0 per lb.	
	„ Paraffine ...	0 8 „	
	„ Spermaceti ...	0 8 „	
	„ Composition and other sorts ...	0 5 „	
7	Carriages— ...	*Ad valorem.*	
8	Clocks, Watches, and other Time-keepers ...	*Ad valorem.*	
9	Coffee—		
	Persian Gulf and Red Sea ...	30 0 per cwt.	
	Other Places ...	20 0 „	
10	Corals, real— ...	*Ad valorem.*	
11	Corks— ...	1 8 per gross.	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
12	Cotton—		
	Thread—		
	Sewing Thread, white and coloured ...	0 11 per lb.	Seven and a half per cent.
	" In reels, or on cards of one hundred yards (and *prorata* above and below)*	2 4 per gross reel.	
	" Goa and Country ...	30 0 per cwt.	
	Twist—		
	Mule, under No. 15 ...	0 6 per lb.	Three and a half per cent.
	Nos. 16 to 24 ...	0 9 "	
	25 to 32 ...	0 10 "	
	33 to 42 ...	0 11 "	
	43 to 52 ...	0 12 "	
	53 to 60 ...	0 14 "	
	No. 70 ...	0 15 "	
	80 ...	1 0 "	
	90 ...	1 1 "	
	100 ...	1 2 "	
	110 ...	1 3 "	
	120 ...	1 4 "	
	and one anna additional for every count of ten above No. 120		
	Water, No. 20 ...	0 10 "	
	30 ...	0 11 "	
	40 ...	0 13 "	
	50 ...	0 15 "	
	Above 50 ...	1 2 "	
	Turkey Red Twist, all kinds† ...	1 6 per lb.	Three and a half per cent. † Duty to be charged on the Grey weight of the Coloured Yarn; when not ascertainable, the actual wharf Weight or Invoice Weight to be taken.
	Twist, Orange, red and other colours† ...	0 15 "	
	Piece Goods—		
	Grey—		
	Mulls ...	1 1 per lb.	Five per cent.
	Jaconets exceeding 10 × 10 to the quarter inch ...	0 13 "	
	Other Jaconets ...	0 11 "	
	Shirtings, Madapollams and Prints ...	0 11 "	
	Long Cloths, Jeans, Domestics, Sheetings, Drills and T. Cloth	0 9 "	
	Other sorts ...	*Ad valorem.*	

* Exceeding this length to be charged in proportion.

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
	Cotton—(*continued.*)		
	Cotton Rope ...	25 0 per cwt.	
	Cotton Goods, other kinds ...	*Ad valorem.*	
13	Drugs and Medicines—		
	Acid, Sulphuric ...	0 3 per lb.	
	Alkali, Country (Sajee Khar) ...	2 0 per cwt.	
	Aloes, Black ...	10 0 „	
	„ Socotra ...	25 0 „	
	Alum ...	3 8 „	
	Arsenic ...	25 0 „	
	„ China, Munseel ...	8 0 „	
	Assafœtida (Hing) ...	55 0 „	
	„ Coarse (Hingra) ...	10 0 „	
	Brimstone, Flour ...	7 0 „	
	„ Roll ...	6 0 „	
	„ Rough ...	4 8 „	
	Camphor, Bhimsing (Barras) ...	50 0 per lb.	
	„ Refined Cake ...	65 0 per cwt.	
	„ Crude in Powder ...	50 0 „	
	Cassia Lignea ...	38 0 „	
	Coova, red ...	*Ad valorem.*	
	Copperas, green ...	2 8 per cwt.	
	Quinine ...	*Ad valorem.*	
	Sal Ammoniac ...	22 0 per cwt.	Seven and a half per cent.
	Salep ...	60 0 „	
	Senna Leaves ...	6 0 „	
	All other sorts ...	*Ad valorem.*	
14	Dyeing and Colouring Materials—		
	Cochineal ...	1 12 per lb.	
	Gallnuts, Country, Myrabolam ...	3 0 per cwt.	
	„ Persian ...	35 0 „	
	Gamboge Wood ...	20 0 „	
	Madder or Munjeet ...	10 0 „	
	Orchilla Weed ...	8 0 „	
	Saffron, Europe ...	16 0 per lb.	
	„ Meadow, Soorunjun ...	10 0 per cwt.	
	„ Persian ...	12 0 per lb.	
	„ In Cakes or Lumps ...	5 0 „	
	Sapan Wood and Root ...	3 8 per cwt.	
	Aniline Dyes ...	0 8 per oz.	
	All other sorts ...	*Ad valorem.*	
15	Fireworks—		
	China ...	30 0 per box of 133⅓ lbs.	
	Other sorts ...	*Ad valorem.*	
16	Flax, Manufactures of—		
	Piece Goods ...	*Ad valorem.*	Five per cent.
	Other sorts, including linen thread	*Ad valorem.*	
17	Fruits and Vegetables—		
	Almonds, without shell ...	25 0 per cwt.	
	„ with shell ...	10 0 „	
	Cajoo kernels ...	10 0 „	Seven and a half per cent.
	Cocoanuts ...	30 0 per thousand.	
	„ kernel (Copra) ...	9 8 per cwt.	
	Currants, Europe ...	35 0 „	
	„ Persian ...	12 0 „	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
	Fruits and Vegetables—(*continued.*)		
	Dates, dry, in bags ...	4 0 per cwt.	Seven and a half per cent.
	„ wet, „ ...	3 0 „	
	„ „ in pots ...	6 0 „	
	Figs, Europe ...	42 0 „	
	„ Persian, dried ...	6 0 „	
	Garlic ...	4 0 „	
	Pistachio Nuts ...	14 0 „	
	Prunes, Bussorah ...	12 0 „	
	Raisins, Black, Persian Gulf, Red Sea, and Khismis ..	12 0 „	
	„ Monocka, Persian Gulf and Red Sea ...	7 0 „	
	„ Malaga and Bloom ...	0 10 per lb.	
	„ Other sorts ...	*Ad valorem.*	
	Walnuts, Akroot ...	5 0 per cwt.	
	Mangoes, dried ...	*Ad valorem.*	
	Prunes, Europe ...	Ditto.	
	Other sorts, except Bidmiskh and Buzarbutto Nuts which are free	Ditto.	
18	Glass and Glass-ware—		
	Bangles, Glass, China, Gilt ...	10 0 per 100 pairs.	
	„ not Gilt ...	5 0 „	
	Glass, Broken ...	5 0 per cwt.	
	„ China, of all colours ...	32 0 per 133⅓ lbs.	
	„ Crown, coloured ...	32 0 per 100 supl. ft.	
	„ „ of sizes ...	5 0 „	
	Glass and Glass-ware of all other sorts, except Bottles which are free	*Ad valorem.*	Seven and a half per cent.
19	Gums—		
	Gum, Ammoniac	10 0 per cwt.	
	„ Arabic ...	16 0 „	
	„ Bdellium, common Gum ..	5 0 „	
	„ Benjamin ...	33 0 „	
	„ Bysabole, coarse Myrrh ...	12 0 „	
	„ Copal ...	65 0 „	
	„ Frankincense or Olebanum	9 0 „	
	„ Gambier (or Kino) ..	8 0 „	
	„ Myrrh ...	24 0 „	
	„ Persian (false) ...	3 0 „	
	„ Rosin ...	12 0 „	
	All other sorts ...	*Ad valorem.*	
20	Groceries not otherwise described ...	*Ad valorem.*	
21	Hides and Skins—		
	Border Hides, prepared ...	30 0 each.	
	Buffalo Hides, Country, Tanned...	80 0 per score.	
	Calf Skins ...	40 0 per dozen.	
	Chamois Skins ...	6 0 „	
	Cow Hides, Country, Tanned ...	60 0 per score.	
	Rhinoceros Leather ...	40 0 per cwt.	
	Other sorts ...	*Ad valorem.*	
22	Instruments, Musical ...	*Ad valorem.*	
23	Ivory and Ivory-ware—		
	Elephants' Grinders ...	16 0 per cwt.	
	Tusks above twenty lbs. ...	300 0 „	
	Tusks ten lbs. and not exceeding twenty lbs. ..	225 0 „	
	Tusks under ten lbs. ...	125 0 „	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
	Ivory and Ivory-ware—(*continued.*)		
	Sea Cow or Moye Teeth, three lbs. and upwards ..	225 0 per cut.	
	Sea Cow or Moye Teeth, under three lbs. ...	75 0 „	
	Ivory, Manufactures of ...	*Ad valorem.*	
24	Jewellery, including Plate—		
	Silver-ware, plain ...	1 6 per tolah.	Seven and a half per cent.
	„ embossed ...	2 0 „	
	Jewellery and Plate of all other kinds, excepting Precious Stones and Pearls, which are free ...	*Ad valorem.*	
25	Leather and Manufactures of—		
	Leather ...	*Ad valorem.*	
	Boots and Shoes ..		
	Harness and Saddlery ...		
	Other sorts ...		
26	Liquor—		
	Ale, Beer and Porter ..	.....	One anna per Imperial Gallon.
	Cider and other fermented Liquors ...		
	Spirits ...	.....	Three Rupees the Imperial Gallon, and the duty to be rateably increased as the strength exceeds London Proof: Provided that ten per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall, from time to time, prescribe, for ascertaining that such spirits are unfit for use as a beverage and incapable of being converted to that purpose. And the officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.
	Wines—		
	Champagnes, Sparkling Wines and Liquours ..	.....	1 8 per Impl. gallon, or six Quart Bottles.
	All other sorts ...	.....	1 0 per ditto.

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
27	MATCHES—		
	Lucifer and all other sorts ...	*Ad valorem.*	
28	MATS, FLOOR MATTING, CHINA, OF ALL SORTS ...	50 0 per hundred.	
29	METALS UNWROUGHT, WROUGHT AND MANUFACTURES OF—		
	Brass, beads, Googree, China ...	0 12 per thousand.	
	" Old ...	35 0 per cwt.	
	" Sheets, rolls very thin ...	80 0 "	
	Copper. Australian Cake, ...	41 0 "	Seven and a half per cent.
	" Bolt ...	43 0 "	
	" Brazier's ...	43 0 "	
	" China Cash ...	28 0 "	
	" Japan ...	41 0 "	
	" Nails and Composition Nails ...	43 0 "	
	" Old ...	40 0 "	
	" Pigs and Slabs, Foreign ...	38 0 "	
	" Sheet, Sheathing and Plate	43 0 "	
	" Tiles, Ingots, Cakes and Bricks ...	40 0 "	
	Copper, China. White Copper-ware	1 4 per lb.	Seven and a half per cent.
	" Foil Dauk-pana China ...	3 0 per book of 100 leaves.	
	" " " Europe	4 0 "	
	" All other kinds ...	*Ad valorem.*	
	Iron, Angle and T Iron ...	*Ad valorem.*	One per cent.
	" Beams, Pillars, Girders and Bridge-work ...	*Ad valorem.*	
	" Flat, Square and Bolt, including Scotch ...	80 0 per ton.	
	" Hoop, Plate and Sheet ...	100 0 "	
	" Nails, Rivets and Washers...	10 0 per cwt.	
	" Nail, Rod ...	90 0 per ton.	
	" Old ...	2 8 per cwt.	
	" Pig ...	40 0 per ton.	
	" Rod, Round, British, under half inch diameter ...	105 0 "	
	" Rod, Round, British, exceeding half inch diameter ...	80 0 "	
	" Swedish, Flat and Square ...	120 0 "	
	" Rice Bowls ...	3 0 per set of ten.	
	" " " ...	1 8 per " " six.	
	" Galvanised ...	*Ad valorem.*	
	" Other sorts, except Anchors, Cables and Kentledge, which are free ...	*Ad valorem.*	Seven and a half per cent.
	Lametta, Double reels ...	4 8 per score.	
	" Single " ...	2 4 "	
	Lead, Pig ...	10 0 per cwt.	
	" Pipes ...	13 8 "	
	" " tinned ...	16 0 "	
	" Sheets (other than thin Sheets for Tea Canisters, which are free) ...	12 0 "	
	Ore Galena ...	13 0 "	
	Gold leaf, Europe ...	4 0 per 100 leaves.	
	Mock Gold leaf ...	5 0 per 20 books.	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
	Metals, &c.—*continued.*	Rs. A.	
	Orsidue or Brass Leaves, foreign		Seven and a half per cent.
	Europe ...	1 4 per lb.	
	" China .	0 12 "	
	Patent or Yellow Metals, Sheathing and Sheets and Bolts ...	35 0 per cwt.	
	" " Old ...	30 0 "	
	Quicksilver ...	1 0 per lb.	
	Shot, Bird ...	15 0 per cwt.	
	Spelter Nails ...	17 8 "	
	" Plate and other shapes ..	11 0 "	
	" Sheet or Zinc Sheathing ...	15 0 "	
	Steel, Blistered ...	9 0 "	
	" British .	9 0 "	
	Steel Cast ...	25 0 per cwt.	
	" Spring ...	10 0 "	
	" Swedish ...	10 0 "	
	Tin, Block ...	45 0 "	
	" Plates ...	12 8 "	
	Wire, Brass .	0 8 per lb.	
	" Common Iron, Nos. 1 to 40	9 8 per cwt.	
	" Copper .	0 10 per lb.	
	Other sorts, including Hard-ware, Ironmongery, and Cutlery, but excluding Machinery, the component parts thereof, and Agricultural Implements, which are free ...	*Ad valorem.*	
30	Naval Stores—		
	Cables, Coir, tarred ...	10 0 per cwt.	Seven and a half per cent.
	Canvas, Country, Cotton ...	50 0 "	Five per cent.
	" Europe, Sail, not exceeding forty yards ..	15 0 per bolt.	
	Coir, Rope, Maldive and Laccadive	10 0 per cwt.	Seven and a half per cent.
	" Yarn of all kinds ...	9 0 "	
	Cordage, Hemp, Europe ...	18 0 "	
	" Manilla .	20 0 "	
	Dammer " ...	5 0 "	
	Pitch, American and Europe ...	13 0 per barrel not exceeding three cwt. and *pro rata* above and below.	
	" Coal ..	4 8	
	Tar, American ...	13 0 Ditto do.	
	" Coal ..	6 8	
	" Swedish and Archangel ...	14 0	
	Twine, Europe, Sail ..	0 8 per lb.	
	All other sorts, except Oakum, which is free .	*Ad valorem.*	
31	Oils—		
	Cardamom ...	10 0 per lb.	
	Cassia ..	4 0 "	
	Cinnamon, Ceylon ...	10 0 "	
	Cocoanut ...	30 0 per cwt.	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
	Oils—*continued.*	Rs. As.	
	Earth ...	10 0 per cwt.	Seven and a half per cent.
	Grass ..	2 0 per lb.	
	Jingelee, or Teel ...	20 0 per cwt.	
	Kerosine, Paraffine, Petroleum, Rock and Shale Oils of all descriptions ...	0 12 per Impl. gal.	
	Linseed, Country ...	18 0 per cwt.	
	" Europe ...	2 4 per Impl. gal.	
	Naphtha ...	30 0 per cwt.	
	Otto. of sorts ...	20 0 per ounce.	
	Sandalwood ...	8 0 per lb.	
	Sorrel ...	20 0 per cwt.	
	Turpentine ...	2 0 per Impl. gal.	
	Whale and Fish ...	15 0 per cwt.	
	Wood ...	15 0 "	
	All other sorts, except Cocum and Slush Fat, which are free ..	*Ad valorem.*	
32	Oil and Floor Cloth ...	*Ad valorem.*	Five per cent.
33	Opium ...	.....	Twenty-four rupees per seer of eighty tolas.
34	Paints, Colours and Painter's Materials—		Seven and a half per cent.
	Ochre, all colours ...	3 0 per cwt.	
	Paints of sorts ..	12 0 "	
	Composition Paint and Patent Driers ...	30 0 "	
	Prussian Blue, China ...	0 8 per lb.	
	" " Europe ...	1 8 "	
	Red Lead ...	14 0 per cwt.	
	Turpentine ...	2 0 per Impl. gal.	
	Verdigris ...	75 0 per cwt.	
	Vermillion, Canton ...	80 0 per box of 90 bundles.	
	" Macao ...	30 0	
	White Lead .	12 0 per cwt.	
	All other sorts, including Brushes	*Ad valorem.*	
35	Perfumery—		
	Atary, Persian ...	15 0 per cwt.	
	Rose Flowers, dried ...	10 0 "	
	Rose Water ...	1 12 per Impl. gal.	
	All other sorts ...	*Ad valorem.*	
36	Photographic Apparatus and Materials .	*Ad valorem.*	
37	Piece Goods not otherwise described ...	*Ad valorem.*	Five per cent.
38	Porcelain and Earthen-ware ...	*Ad valorem.*	Seven and a half per cent.
39	Provisions and Oilman's Stores—		
	Bacon in Canisters, Jowls and Checks ...	0 9 per lb.	
	Beef ...	60 0 per tierce of three cwt.	
		40 0 per barrel of two cwt.	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
	Provisions and Oilman's Stores—*continued.*	Rs. As.	
	Cheese ...	0 10 per lb.	Seven and a half per cent.
	Fish Maws ...	50 0 per cwt.	
	Fish Sozille and Singally, small...	6 0 per cwt.	
	Flour ...	25 0 per barrel or sack of 200 lbs.	
	Ghee ...	36 0 per cwt.	
	Hams ...	0 8 per lb.	
	Pork ...	50 0 per tierce of three cwt. and 34 0 per barrel of two cwt.	
	Shark Fins ...	20 0 per cwt.	
	Tongues, salted ...	10 0 per keg of six.	
	Vinegar in Wood, Europe ...	1 8 per Impl. gal.	
	" " Persian ...	0 12 "	
	" " Country ...	0 6 "	
	All other sorts, except Biche de mer, Butter and Salted Fish, which are free ...	*Ad valorem.*	
40	Railway Materials—		
	Of Iron ...	*Ad valorem.*	One per cent.
	Steel Rails and other articles intended for the permanent way of Railways ...	*Ad valorem.*	
	Other sorts ...	*Ad valorem.*	Seven and a half per cent.
41	Rattans and Canes—		
	Canes, Malacca ..	1 0 per dozen.	
	Rattans ...	7 0 per cwt.	
	All other sorts ...	*Ad valorem.*	
42	Salt—		
	Imported from any place whether within or without British India,		Rs. As.
	(*a*) into British Burmah ...	.....	0 8 per maund.
	(*b*) into the territories under the Government of the Lieutenant Governor of Bengal ...	.....	3 4 "
	(*c*) into any other part of British India ...	.....	1 13 "
43	Seeds—		
	Anchuchuck ..	10 0 per cwt.	Seven and half per cent.
	Anise, Europe ...	28 0 "	
	Assalia ...	7 0 "	
	Cajoo ...	3 0 "	
	Castor ...	4 8 "	
	Cummin ..	12 0 "	
	" Black .	5 0 "	
	Esubgool ...	5 0 "	
	Linseed ...	5 0 "	
	Methee ...	5 0 "	
	Mustard ...	4 8 "	
	Quince Seed or Badana ...	50 0 "	
	Rape or Surape ..	4 8 "	
	Sawjeerah ...	25 0 "	
	Tookmeria .	7 0 "	
	All other sorts, excepting Seeds imported by any Public Society for gratuitous distribution, which are free ...	*Ad valorem.*	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
44	Shells—		Seven and a half per cent.
	Chanks, "large shells," for Cameos ...	10 0 per hundred.	
	" White, Live ..	6 0 "	
	" " Dead	3 0 "	
	Cowdas, Mozambique and Zanzibar ...	3 0 "	
	" from other places ...	0 8 "	
	Cowries—		
	Bazar, common ...	4 0 per cwt.	
	Maldive ..	16 0 "	
	Sunkley ...	40 0 "	
	Yellow, Superior Quality ...	8 0 "	
	Mother o'Pearl ...	8 0 "	
	Tortoise Shell .	6 0 per lb.	
	" Nuck ..	1 0 "	
	Nuckla and other sorts ..	*Ad valorem.*	
45	Silk—		
	Floss ...	8 0 per lb.	
	Raw, Charon and Cochin-China ..	4 0 "	
	" Mathow	1 12 "	
	" Other kinds of China .	7 0 "	
	" Persian ...	5 0 "	
	" Punjum and Cutchra ..	1 12 "	
	" Siâm ...	4 0 "	
	Sewing Thread, China ..	8 0 "	
	Other sorts ...	*Ad valorem.*	
	Silk Piece Goods of sorts .	*Ad valorem.*	Five per cent.
46	Soap ...	*Ad valorem.*	Seven and a half per cent.
47	Spices—		
	Aloe Wood ...	3 0 per lb.	
	Aniseed Star .	40 0 per cwt.	
	Betelnut, White, Sheverdhun ...	18 0 "	
	" all other kinds ...	4 0 "	
	" in husk ...	2 0 per thousand.	
	Cassia Buds, Nagkessur, China ...	0 8 per lb.	
	Chillies, dried ...	8 0 per cwt.	
	Cloves ...	12 0 "	
	" in Seeds, Nurlavung ...	8 0 "	
	Mace ..	0 9 per lb.	
	" false ...	10 0 per cwt.	
	Nutmegs ..	0 10 per lb.	
	" in shell ...	0 6 "	
	" Wild ..	12 0 per cwt.	
	Pepper, Black and Long ..	14 0 "	
	" White ...	25 0 "	
	All other kinds ...	*Ad valorem.*	
48	Stationery other than Paper ...	*Ad valorem.*	
49	Sugar and Sugar-Candy—		
	Sugar-Candy, China ...	20 0 per cwt.	
	" Loaf ...	23 0 "	
	" Soft ...	12 0 "	
	All other sorts of Saccharine Produce ...	*Ad valorem.*	
50	Tea ...	1 0 per lb.	

SCHEDULE A.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
51	Tobacco—		
	Manufactured ...	*Ad valorem.*	Ten per cent.
	Unmanufactured		
	Articles, such as Pipes, &c., used in consumption of ...	*Ad valorem.*	Seven and a half per cent.
52	Toys and Requisites for all Games ...	*Ad valorem.*	
53	Umbrellas—		
	Cotton, Steel Ribs ...	0 13 each.	
	" Cane Ribs ..	0 11 "	
	" China Paper Kettisals ...	45 0 per box of 110	
	All other sorts ...	*Ad valorem.*	
54	Woollen Goods—		
	Piece Goods .	*Ad valorem.*	Five per cent.
	Braid ...	*Ad valorem.*	Seven and a half per cent.
	Other sorts ...		

SCHEDULE B.

IMPORT TARIFF.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
1	Cotton Goods—		
	Piece Goods—		
	Baftahs ...	30 0 per score.	Three per cent.
	Gurrah ..	20 0 "	
	Khurwah ...	25 0 "	
	Mamoodie ...	32 0 "	
	Mirzapore Chintz ...	15 0 "	
	Patna ..	30 0 "	
	Shans ...	40 0 "	
	Tunjeeb, Oudh ...	26 0 "	
	Other sorts ...	*Ad valorem.*	
	Twist, Country, No. 10 ...	0 7 per lb.	
	" " " 20 ..	0 9 "	
	" " " 30 ...	0 10 "	
	" Hand Spun ...	0 5 "	
	All other kinds of Cotton Goods..	*Ad valorem.*	
2	Grain of all Sorts ...	.....	Three annas per maund.
3	Hides and Skins, Tanned—		
	Hides—		
	Buffalo, Country, Tanned ...	70 0 per score.	Three per cent.
	Cow " ...	50 0 "	
	Skins—		
	Goat and Sheep ...	10 0 "	
	Lamb ..	5 0 "	
	Any other sorts of Hides and Skin	*Ad valorem.*	

SCHEDULE B.

IMPORT TARIFF.—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. As.	
	Indigo ...	.....	Three rupees per maund.
5	Lac—		
	Button ...	28 0 per cwt.	Four per cent.
	Dye ..	45 0 „	
	Seed ...	20 0 „	
	Shell ...	28 0 „	
	Stick ...	16 0 „	
	Other sorts ...	*Ad valorem.*	
6	Oils—		
	Castor ...	16 0 per cwt.	Three per cent.
	Cocoanut ...	20 0 „	
	Fish ...	15 0 „	
	Grass ...	2 0 per lb.	
	Jingeely or Teel ...	20 0 per cwt.	
	Linseed ...	18 0 „	
	Mhowa ...	12 0 „	
	Mustard ...	16 0 „	
	Poppy ...	20 0 „	
	Rape or Sursee ...	16 0 „	
	Sandalwood ...	8 0 per lb.	
	Other sorts ...	*Ad valorem.*	
7	Seeds—		
	Castor Seed (Erundee) ...	4 8 per cwt.	Three per cent.
	Coriander Seed ...	4 0 „	
	Cummin Seed ...	12 0 „	
	„ Black (Caleejeera) ...	5 0 „	
	Ground-Nuts, with shell ...	5 0 „	
	„ without shell ...	6 0 „	
	Jingeely or Teel Seed ...	6 0 „	
	Linseed ...	5 0 „	
	Methee Seed ...	5 0 „	
	Mustard Seed ...	4 8 „	
	Poppy Seed ...	5 8 „	
	Rape or Sursee Seed ...	4 8 „	
	Other sorts ...	*Ad valorem.*	
8	Spices—		
	Aloe Wood ...	3 0 per lb.	
	Betelnut in husk ...	2 0 per 1,000.	
	Cardamoms ...	200 0 per cwt.	
	„ Large, Bastard ...	40 0 „	
	Chillies, dried ...	8 0 „	
	Ginger, Dry (Rough) Malabar ...	10 0 „	
	„ „ „ Bengal ...	7 0 „	
	„ (Scraped) ...	15 0 „	
	Pepper ...	15 0 „	
	Turmeric ...	5 0 „	
	All other sorts ...	*Ad valorem.*	

SCHEDULE C.

(See Section 9.)

NUMBER AND YEAR.	SUBJECT OR TITLE.	EXTENT OF REPEAL.
Act XIV. of 1836 ...	Bengal Customs	So much as has not been repealed.
„ VI. of 1844 ...	Madras Customs	So much of Schedules A and B as has not been repealed.
„ I. of 1852 ...	An Act for the consolidation and amendment of the Laws relating to the Customs, under the Presidency of Bombay.	So much as has not been repealed.
„ XXX. of 1854 ...	An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.	Section 8, from the beginning down to and including the words "shall be free; provided that"
„ XXIX. of 1857 ...	An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidency of Bombay.	So much of Section 2 as has not been repealed.
„ XXII. of 1859 ...	An Act to amend Act I. of 1852 (for the consolidation and amendment of the Laws relating to the Customs, under the Presidency of Bombay).	So much as has not been repealed.
„ III. of 1861 ...	An Act to provide for the collection of Duty of Customs on Pepper, exported by Sea from the British Port of Cochin.	The whole.
„ II. of 1868 ...	An Act to alter the rate of Duty leviable on Pepper, exported from Cochin.	The whole.
„ XXIV. of 1869 ...	An Act to enhance the price of Salt in the Presidency of Fort St. George and the Duty on Salt in the Presidency of Bombay.	In Section 2, the words "either by sea or"
„ XVII. of 1870 ...	An Act to amend the Law relating to Customs Duties.	The whole.

Act No. XIV. of 1871.

1. Amendment of Act VI. of 1863, Section 23.
2. Warrant to be given every time goods are warehoused. Form of warrant.
3. Goods found in boat in excess of boat-note or pass, liable to confiscation.
4. Act to be read with Act VI of 1863.

An Act for the further Amendment of the Consolidated Customs' Act.

Preamble.

For the further amendment of the Consolidated Customs' Act (No. VI. of 1863); It is hereby enacted as follows:—

Amendment of Act VI of 1863, Section 23.

I. Section 23 of the said Act shall be deemed to authorize and to have always authorized the Governor General in Council to prohibit, or restrict the importation or exportation, by sea or by land, or both by sea and by land, of any particular class of goods.

Warrant to be given every time goods are warehoused.

II. As often as any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods.

Form of warrant.

Such warrant shall be in the form in the schedule to this Act annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

Goods found in boat in excess of boat-note or pass liable to confiscation.

III. All goods found on board any boat in excess of the boat-note or Custom-house pass, whether such goods are intended to be landed or to be shipped on board any vessel, shall be liable to confiscation.

Act to be read with Act VI. of 1863.

IV. This Act shall be read with and taken as part of the Consolidated Customs' Act.

SCHEDULE.

Form of Bonded Warehouse Warrant.

(See Section 2.)

I do hereby certifiy that have deposited in the Warehouse of the under-mentioned goods which goods the engage on demand, after payment of rent and incidental charges and Government Dues or Customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

ACT No. XV. of 1871.

THE BROACH THÁKURS' RELIEF ACT.

Preamble.

I.—Preliminary.

1. Short title.
2. Interpretation-clause.

II—Vesting Order.

3. Power to vest management of thákur's property in officer appointed by Government.
4. Effect of order. Bar of suits against thákur. Thákur freed from arrest, and his moveable property from attachment. Cessation of his power to alienate. Immoveable property freed from attachment.

III.—Duties of Manager.

5. Manager to receive rents and profits, and pay therefrom
the Government demand;
an annual sum for maintenance of the thákur;
costs of repairs and improvements;
costs of management:
and the debts and liabilities.

IV.—Settlement of Debts.

6. Notice to claimants against thákur. Copies of notice to be exhibited.
7. Claim to contain full particulars. Documents to be given up. Entries in books.
Exclusion of documents not produced.
8. Debt or liability not duly notified, to be barred.
Provision for admission of claim within further period of nine months.
9. Determination of debts and liabilities.
10. Appeal.
11. Scheme for settlement of debts and liabilities.
Power to return scheme for revision.
12. Restoration of thákur to his property. Revival of barred proceedings and debts.

V.—Powers of Manager.

13. Power to call for further particulars.
14. Power to summon witnesses and compel production of documents.
15. Power to administer oaths.
16. Investigation to be deemed a judicial proceeding.
Statements of persons examined, to be evidence.
17. Manager to have powers of a Collector. Power to remove mortgagee in possession.
18. Power to lease.
19. Power to raise money by mortgage or sale. Manager's receipts.

VI.—Miscellaneous.

20. Power to make rules.
21. Power to appoint new Managers.
22. Managers to be public servants.
23. Bar of suits.
24. Petitions, &c., under Act, exempt from Court fees.
25. Saving of jurisdiction of Courts in Broach in respect of certain suits.
26. Amendment of Bombay Act VI of 1862.
Schedule.

An Act to relieve from Incumbrances the Estates of Thákurs in Broach.

Preamble.

Whereas the majority of the Thákurs in Broach are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:—

I.—Preliminary.

Short Title.

I. This Act may be called "The Broach Thákurs' Relief Act."

Interpretation-clause.

II. In this Act—

'thákur' means a person mentioned in the schedule hereto annexed, and

'heir' means the person for the time being entitled as heir to a thákur.

II.—Vesting Order.

Power to vest management of thákur's property in officer appointed by Government.

III. Whenever, within twelve months after the passing of this Act, any thákur,

or (when such thákur is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such thákur if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

applies in writing to the Governor of Bombay in Council, stating that the thákur is subject to, or that his immoveable property is charged with debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Governor of Bombay in Council may, by order published in the Bombay Government Gazette, appoint an officer (hereinafter called the Manager), and vest in him the management of the immoveable property of or to which the thákur is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the thákur or his heir during the continuance of such management.

Effect of order.

IV. On such publication, the following consequences shall ensue :—

Bar of suits against thakur.

first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India, shall be barred ; and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void ;

Thakur freed from arrest.

secondly, so long as such management continues the thákur and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the thákur was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government ;

and his moveable property from attachment.

nor shall their moveable property be liable to attachment or sale, under process of any Civil Court in British India, for or in respect of such debts and liabilities other than as aforesaid ; and

thirdly, so long as such management continues,

Cessation of his power to alienate.

(*a*) the thákur and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom ;

Immoveable property freed from attachment.

and (*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government.

III.—Duties of Manager.

Manager to receive rents and profits,

V. The Manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof ; and shall, upon receiving such rents and profits, give receipts for the same.

From the sum so received, he shall pay—

and pay therefrom the Government demand :

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property :

an annual sum for maintenance of thákur :

secondly, such annual sum as appears to the Governor of Bombay in Council requisite for the maintenance of the thákur, his heir and their families :

thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Governor of Bombay in Council,

costs of repairs and improvements:

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the thákur and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

costs of management; and the debts and liabilities.

IV.—SETTLEMENT OF DEBTS.

VI. On the publication of the orders vesting in him the management of the said property, the Manager shall publish in the Bombay Government Gazette a notice in English and Gujaráthí, calling upon all persons having claims against the thákur or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

Notice to claimants against thákur.

He shall also cause copies of such notice to be exhibited at the Mámlatdár's Kachahrís in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

Copies of notice to be exhibited.

VII. Every such claimant shall, along with his claim, present full particulars thereof.

Claim to contain full particulars.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Documents to be given up.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the Book for the purpose of identification, and after examining and comparing the copy with the original, shall return the book to the claimant.

Entries in books.

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Exclusion of documents not produced.

VIII. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the thákur is subject, or with which his immoveable property or any part thereof is charged, and which if* not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Debt or liability not duly notified, to be barred.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of sections six and seven, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Provision for admission of claim within further period of nine months.

* *Sic in original.* Query, is P

Determination of debts and liabilities.

IX. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the thákur and persons holding mortgages, charges or liens on the said property or any part thereof.

Appeal.

X. An appeal against any refusal, admission or determination under sections seven, eight or nine shall lie, if preferred, within six weeks from the date of such determination, to the Commissioner of Division to whom the Manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

XI. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Governor of Bombay in Council, a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Governor of Bombay in Council, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the Governor of Bombay in Council may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of thákur to his property.

XII. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in Section 3, the Governor of Bombay in Council thinks that the provisions of this Act should not continue to apply to the case of the thákur or his heir,

the thákur or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in Section 19, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Revival of barred proceedings and debts.

Where the thákur or his heir is so restored under the circumstances mentioned in the second clause of this section, the proceedings, processes, executions and attachments mentioned in Section 3 (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilities barred by Section 8, shall be revived, and any mortgagee dispossessed under Section 17 shall be reinstated unless his claim under the mortgage has been satisfied;

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilities, the time intervening between such restoration and the publication of the order mentioned in Section 3 shall be excluded.

V.—Powers of Manager.

Power to call for further particulars.

XIII. The Manager may, from time to time, call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses and compel production of documents.

XIV. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power to administer oaths.

XV. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Investigation to be deemed a judicial proceeding.

XVI. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with any such claim, shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Statements of persons examined to be evidence.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of a Collector.

XVII. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said immoveable property, the same powers as a Collector possesses under the law for the time being in force for the realization and recovery of land-revenue due to Government.

Power to remove mortgagee in possession.

And if such property, or any part thereof, be in the possession of any mortgagee, the Manager may apply to the Court of the District Judge within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefore had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to lease.

XVIII. Subject to the rules made under Section 20, the Manager shall have power to demise all or any part of the said property, for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to raise money by mortgage or sale.

XIX. The Manager, with the previous assent of the Governor of Bombay in Council, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the thákur is subject, or with which his immoveable property or any part thereof is charged, by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the thákur and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee, advancing money upon any mortgage made under this section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this section, or for any rents or profits received by him under Section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this section shall not be exercisable until six months have elapsed from the publication of the order mentioned in Section 3.

VI.—Miscellaneous.

Power to make rules.

XX. The Governor of Bombay in Council may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when published in the Bombay Government Gazette, shall have the force of law.

Power to appoint new Managers.

XXI. Whenever the Governor of Bombay in Council thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

Managers to be public servants..

XXII. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Bar of suits.

XXIII. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Petitions, &c., under Act exempt from Court fees.

XXIV. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees' Act, 1870.

Saving of jurisdicton of Courts in Broach in respect of certain suits.

XXV. Nothing in this Act precludes the Courts of Broach, having jurisdiction in suits relating to the succession to, or rights of persons claiming maintenance from, any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits, but to all such suits the Manager of such property shall be made a party.

Amendment of Bombay Act VI. of 1862.

XXVI. And whereas doubts have been raised as to the validity of Bombay Act No. VI. of 1862 (*for the amelioration of the condition of Talookdars in the Ahmedabad Collectorate, and for their relief from debt*) so far as it purports to affect the High Court of Judicature at Bombay; for the purpose of precluding such doubts, it is hereby further enacted that the said Act, so far as it purports to affect the said High Court, shall be deemed to be and to have been valid.

Schedule.

(*See Section* 2).

The Thákur of Ahmód.
The Thákur of Saród.
The Thákur of Kerwára.
The Thákur of Dehej.
The Thákur of Janiádra.

ACT No. XVI. of 1871.

THE BURMESE STEAMER SURVEY ACT.

Preamble.

I.—PRELIMINARY.

1. Short title. Local extent. Commencement.
2. Interpretation-clause.

II.—SURVEY OF STEAM VESSELS.

3. Certain Steam Vessels liable to be surveyed twice a year.
4. Government to appoint Surveyors.
5. Authority to Surveyors to go on board for purpose of surveying.
6. Surveyors when to grant Certificate and Declaration.
7. No clearance to be given to a Steamer for a voyage for which she has not got a Certificate.
8. Special survey may be ordered by Government on any British Steamer.
9. Power to make rules as to mode and time of conducting survey.
10. Fees to be paid for survey.
11. Certificates to be hung up in vessel.
12. Certificates to be in force only six months. Provision for vessels absent when Certificate expires. Power to require delivery of expired Certificates.
13. Power to cancel Certificate and Declaration.
14. Power to order a second survey.

Explosions.

15. Power to investigate causes of explosions.

III.—EXAMINATIONS AND CERTIFICATES OF ENGINEERS.

16. Examinations to be instituted for Engineers.
17. Examiners and Rules of Examination.
18. Certificates of Competency.
19. Certificates of Service.
20. No Certificate of Survey, if vessels have not a Certificated Engineer.
21. Power to exempt private Steam vessels.
22. Withdrawal of Certificate.
23. English Certificates to be available.
24. Certificates to be made in duplicate.
25. Copy of Certificate to be delivered.

IV.—PENALTIES.

26. Hindering survey or withholding required information.
27. Leaving without Certificate and Declaration.
28. Master or Officer who is a licensed Pilot attempting to take ship out of port without Certificate.
29. Receiving unlawful fees, &c., for making survey.
30. Neglect to hang up Certificate and Declaration.
31. Refusal to comply with requirements of Section 12.
32. Plying without Certificated Engineer.
33. Offences under this Act by whom to be tried.

SCHEDULE A (Surveyors' Certificate and Declaration.)

SCHEDULE B (Rates of fees).

An Act for the Survey of Steam Vessels plying within British Burma.

Preamble.

Whereas it is expedient to provide for the survey of Steam Vessels plying within British Burma; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

I. This Act may be called "The Burmese Steamer Survey Act:"

Local extent.

It extends only to the territories under the administration of the Chief Commissioner of British Burma; and

Commencement.

It shall come into force at the expiration of one month from the passing thereof.

Interpretation-clause

II. In this Act—

"Chief Commissioner" means the Chief Commissioner of British Burma, and

"Surveyors" includes any Surveyor acting alone when authorised by the Chief Commissioner under the provisions of this Act.

II.—Survey of Steam vessels.

Certain Steam Vessels liable to be surveyed twice a year.

III. Every Steam Vessel plying on any of the rivers or waters of British Burma, except Steam Vessels plying between some Port within the said Province and some Port not in British India, shall be liable to be surveyed twice in every year, in the manner hereinafter prescribed.

Government to appoint Surveyors.

IV. The Chief Commissioner may appoint for the purposes of this Act any Ports in British Burma to be ports of survey, and fit and proper persons to be Surveyors.

Authority to Surveyors to go on board for purpose of surveying.

V. The said Surveyors, in the execution of their duties, may go on board any Steam Vessel liable to be surveyed under this Act, as soon as reasonably may be after the arrival of such Steam Vessel in the Port of Rangoon or any other Port of survey, and not so as unnecessarily to hinder the loading or unloading of such Steam Vessel, or to detain or delay her from proceeding on any voyage or service, and may inspect such Steam Vessel or any part thereof, and any of the machinery, equipments or articles on board thereof.

The Owner, Master and Officers serving on board such vessel shall be bound to afford to the Surveyors all reasonable facilities for such inspection or survey, and to afford them all such information respecting such vessel and her machinery and equipments, or any part thereof respectively, as they may reasonably require.

Surveyors when to grant Certificate and Declaration.

VI. When any survey is made under this Act the Surveyors making such survey shall forthwith, if satisfied that they can with propriety do so, and on payment by the Owner or Master of the ship surveyed of the fees hereinafter mentioned, give him a Certificate and Declaration signed by them and framed as nearly as the circumstances of each case will admit in the form set forth in Schedule A hereto annexed.

No clearance to be given to a Steamer for a voyage for which she has not got a Certificate.

VII. No Officer of Customs shall grant a clearance nor shall any Pilot be assigned to any Steam Vessel liable to be surveyed under this Act, which has not been duly furnished with a Certificate and Declaration under the provisions of this Act applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

If any Steam Vessel liable to be surveyed under this Act leaves or attempts to leave any Port of survey without such Certificate and Declaration, any Officer of Customs or any Pilot on board such Vessel may detain her until she is duly furnished with such Certificate and Declaration.

Special survey may be ordered by Government on any British Steamer.

VIII. The Chief Commissioner may give special direction to the Surveyors under this Act, for the survey by them of any British Steamer lying in any Port of survey and plying between such Port and any other Port or Ports, and the provisions of this Act shall apply (so far as the same are applicable) to every Vessel so specially directed to be surveyed, and the Owner, Master and Officers thereof.

Power to make rules as to mode and time of conducting survey.

IX. The Chief Commissioner may frame rules consistent with this Act as to—

(*a*) the manner in which the surveys shall be made,

(*b*) the times and places of such surveys, and

(*c*) the duties of the Surveyors.

Fees to be paid for survey.

X. For every survey made under this Act the Owner or Master of the Steam Vessel surveyed shall pay to each of the Surveyors making the same a fee, calculated on the tonnage of the Vessel according to the rates in Schedule B hereto annexed.

Certificate to be hung up in Vessel.

XI. Each Certificate and Declaration granted by Surveyors under this Act shall be hung up, and remain at all times suspended in some conspicuous part of the Vessel for which the same is granted, where the same may be easily read.

Certificates to be in force only six months.

XII. No Certificate or Declaration shall be in force for the purposes of this Act after the expiration of six months from the date thereof:

Provision for Vessels absent when Certificate expires.

Provided that, if any Steam Vessel is not in any Port of survey when her Certificate and Declaration expire, no penalty shall be incurred for the want of a Certificate and Declaration, until she first begins to ply, or is about to ply after her next subsequent arrival at some Port of survey.

Power to require delivery of expired Certificates.

The Chief Commissioner may require any Certificate and Declaration which has expired or has been revoked or cancelled, to be delivered up as may be directed.

Power to cancel Certificate and Declaration.

XIII. The Chief Commissioner may revoke and cancel any Certificate and Declaration granted under this Act in any case in which he has reason to believe—

(1) that the Certificate and Declaration of the sufficiency and good condition of the hull, equipments, and machinery of any Steam Vessel, or either of them, have been fraudulently or erroneously given or made, or,

(2) that such Certificate and Declaration have otherwise been issued upon false or errroneous information, or,

(3) that, since the giving and making of such Certificate and Declaration, the hull, equipments, or machinery of such Vessel have sustained any injury or are otherwise insufficient.

And in every such case the Chief Commissioner may, if he thinks fit, require the Owner or Master to have such Steam Vessel again surveyed as herein provided.

Power to order a second survey.

XIV. If any Steam Vessel is surveyed under the provisions of this Act, and if the Surveyors decline to give any Certificate or Declaration, or give a Certificate or Declaration with which the Owner or Master of the Steam Vessels is dissatisfied, the Chief Commissioner may, on the application of such Owner or Master, appoint two other competent Surveyors to survey the said Steam Vessel.

The Surveyors so appointed shall forthwith survey the said Steam Vessel, and shall either decline to give any Certificate and Declaration, or shall give such Certificate and Declaration as under the circumstances may seem to them proper.

Every survey made under this section shall be made subject to all the provisions and rules, both as to the payment of fees and otherwise, which are applicable to surveys made in ordinary cases under this Act.

If the Surveyors appointed under this section unanimously refuse to give any Certificate and Declaration, or agree as to the terms of their Certificate and Declaration, such refusal, or such Certificate and Declaration, shall be final and conclusive; but if they do not agree, the refusal originally made, or the Certificate and Declaration originally granted by the Surveyors who surveyed the Steam Vessel in the first instance, shall remain in force.

Explosions.

Power to investigate causes of explosions.

XV. Whenever any explosion occurs on board of any Steam Vessel subject to this Act, the Chief Commissioner may, if he thinks fit, direct that an investigation of the cause of such explosion be made by such person or persons as he thinks fit.

Such person or persons may enter into and upon such Steam Vessel with all necessary workmen and labourers, and remove any portion of such Steam Vessel, or of the machinery thereof, for the purpose of such investigation, aud shall report the cause of such explosion.

III.—EXAMINATIONS AND CERTIFICATES OF ENGINEERS.

Examinations to be instituted for Engineers.

XVI. Examinations shall be instituted for persons who intend to become Engineers of Steamers, or who wish to procure Certificates of Competency hereinafter mentioned.

Examiners and rules of examination.

XVII. The Chief Commissioner shall, from time to time, nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and may make rules for the conduct of such examinations, and as to the qualifications to be required, and the fees to be paid by all applicants for examination.

Certificates of competency to be given.

XVIII. The Chief Commissioner shall deliver to every applicant who is reported by the Examiners to have passed the examination satisfactorily, a certificate (hereinafter called a "Certificate of Competency") to the effect that he is competent to act as Engineer.

Certificates of service to be given.

XIX. Every person who, before the passing of this Act, has served for a period of not less than one year as first or only Engineer in any Steam Vessel, or who has attained or shall attain the rank of First Class Assistant Engineer in the Service of Her Majesty, shall be entitled to a Certificate of Service.

Each of such Certificates of Service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered.

And the Chief Commissioner shall deliver such Certificates of Service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank, or to have served as aforesaid; and, upon their giving a full and satisfactory account of the particulars aforesaid, and on payment of such fees as the Chief Commissioner shall, by an order published in the local official Gazette, from time to time direct.

No Certificate of Survey if vessels have not a Certificated Engineer.

XX. No Certificate of Survey, under this Act, shall be granted for any Steam Vessel, unless it has, as its Engineer, an Engineer possessing a Certificate of Competency or a Certificate of Service.

Power to exempt private Steam Vessels.

XXI. The Chief Commissioner may exempt from the operation of Section 20 any Steamer which does not ply with passengers or goods, or as a Steam Tug for hire.

Withdrawal of Certificate.

XXII. It shall be lawful for the Chief Commissioner, in case of the misconduct, negligence or incompetency of any Engineer possessing a Certificate of Competency or a Certificate of Service, to cancel such Certificate, or to suspend the same, for such time as to him or them seems fit.

English Certificates to be available.

XXIII. Every Engineer's Certificate of Competency or Service, which may be granted by any competent authority in the United Kingdom, shall have, in all respects, the same validity and effect as if the same had been granted under the provisions of this Act.

Certificates to be made in duplicate.

XXIV. All Certificates, whether of Competency or Service, shall be made in duplicate, and one part shall be delivered to the person entitled to the Certificate, and the other shall be kept and recorded as the Chief Commissioner directs.

A note of all orders made for cancelling, suspending, altering, or otherwise affecting any Certificate in pursuance of the powers herein contained, shall be entered in the record of Certificates.

Copy of Certificate to be delivered.

XXV. Whenever any Engineer proves to the satisfaction of the Chief Commissioner, that he has, without fault on his part, lost or been deprived of any Certificate already granted to him, a copy of the Certificate to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.

IV.—Penalties.

Hindering survey or withholding required information.

XXVI. Any person refusing access to any Surveyors or other persons under this Act, or otherwise hindering them in the performance of their duty, or refusing or neglecting to give any information which may reasonably be required of him, and which he has in his power to give, shall be liable for each offence to fine not exceeding 500 Rupees, or to imprisonment for a term not exceeding one month.

Leaving without Certificate and Declaration.

XXVII. If any Steam Vessel liable to be surveyed under this Act leaves or attempts to leave any Port of Survey without such Certificate and Declaration as is mentioned in Section 7, the Owner or Master of such Vessel shall, for each offence, be punished with fine not exceeding 1,000 Rupees.

Master or Officer who is a licensed Pilot attempting to take ship out of port without Certificate.

XXVIII. If the Commander or any other Officer of a Tug-Steamer, or of any other Steam Vessel liable to be surveyed under this Act, is a licensed Pilot and leaves or attempts to leave any Port of Survey in such Tug-Steamer or Steam Vessel without such Tug-Steamer or Steam Vessel being duly furnished with a Certificate and Declaration under the provisions of this Act, applicable to the voyage

on which she is about to proceed, or the service on which she is about to be employed, such Commander or other Officer shall be liable to have his license as a Pilot taken away from him entirely or suspended for any period by the Chief Commissioner, as the Chief Commissioner may see fit to order.

Receiving unlawful fees for making survey.

XXIX. Any Surveyor demanding or receiving directly or indirectly from the Owner, Master, or Officer of any ship surveyed by him under the provisions of this Act, any fee or remuneration, otherwise than as provided by this Act, shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.

Neglect to hang up Certificate and Declaration.

XXX. The Owner or Master of every Steam Vessel in which the Certificate and Declaration granted under this Act is not hung up and does not remain in manner provided by Section 11, shall, for each offence, be punished with fine not exceeding 100 Rupees.

Refusal to comply with requirements of Section 12.

XXXI. Any Owner or Master or other person who without reasonable cause neglects or refuses to comply with any requirement made under Section 12 shall be punished with fine not exceeding 100 Rupees for each offence.

Plying without Certificated Engineer.

XXXII. The Owner, and also the Master, of any Steam Vessel subject to this Act, which plies on any of the rivers or waters in British Burma, without having in charge of the engines thereof an Engineer possessing a Certificate of Service, or a Certificate of Competency, shall be liable to a fine not exceeding 500 Rupees.

Offences under this Act by whom to be tried.

XXXIII. Any case arising out of this Act may be tried by any Officer having the full powers of a Magistrate, within whose jurisdiction the offence may have been committed, or by any Police Magistrate of the town of Rangoon.

The provisions of Section 55 of Act XXII. of 1855 *(for the regulation of Ports and Port dues)* are hereby extended to all fines imposed under this Act, and all fees due under Section 10 shall be recoverable as if they were fines.

SCHEDULE A.

(See Section 6).

FORM OF SURVEYOR'S CERTIFICATE AND DECLARATION.

Name of Steam Vessel.	Tonnage.	When and where built and material.	Power.	Description of Engines and age.	Description of Boilers and age.	Ground tackle.	Condition of Hull.	General Equipment.	Name of Master and Number of Officers and Deck Crew and of Engineers and Engine-room Crew.	When and where last coppered, repaired or cleaned.	Limits (if any) beyond which the Vessel is not fit to ply.	Time if less than six months for which the Hull, Boilers, Engines, or any of the Equipments will be sufficient.

We, the undersigned, declare that we have examined the above-named Steamer, and to the best of our judgment, she and her engines, as shown in the above Statement, are fully sufficient for the service on which it is intended to employ the said Steamer, that is to say *(as the case may be)*

A. B.
C. D.

SCHEDULE B.

(See Section 10).

RATES OF FEES.

For Steamers of less than				200 tons	Rs.	20	0	0
"	"	200 tons and up to		350 "	"	25	0	0
"	"	350 "	"	" 700 "	"	30	0	0
"	"	700 "	"	" 1,000 "	"	40	0	0
"	"	1,000 "	"	" 1,500 "	"	50	0	0
"	"	1,500 " and upwards			"	60	0	0

ACT No. XVII. OF 1871.

THE OUDH LOCAL RATES' ACT, 1871.

1. Short title. Local extent. Commencement.
2. Interpretation clause. 'Landholder.' 'Estate.' 'Annual value.'
3. Rates assessable.
4. Recovery of rates.
5. Power to recover share of rate from co-sharers or pattidars.
6. Power to recover share of rate from under-proprietor, permanent lessee or occupancy tenant.
7. Jurisdiction over suits as to rates.
8. Appeal to Commissioner.
9. General fund
10 Assignments for local purposes.
11. Unexpended portion of assignment.
12. Accounts of receipts.
13. Appointment of Committees.
14. Power to make supplementary rules.

An act to provide for the levy of Rates on Land in Oudh.

Preamble.

Whereas it is expedient to provide for the levy of rates on land in Oudh to be applied to local purposes; It is hereby enacted as follows:—

Short title.

I. This Act may be cited as "The Oudh Local Rates Act:"

Local extent.

It extends only to the territories under the administration of the Chief Commissioner of Oudh;

Commencement.

And it shall come into force on the first day of April, 1871.

II. In this Act—

Interpretation-clause.

'Land' means land assessed to the land revenue, and includes land whereof the land-revenue has been wholly or in part released, compounded for, redeemed, or assigned:

'Land-holder.'

'Land-holder' means the person in receipt of the rent of any land, and responsible for the payment of the land revenue, if any, assessed on the estate. It also includes a muáfídár or other person holding land, the land-revenue of which has been wholly or in part released, compounded for, redeemed, or assigned:

'Estate.'

'Estate' means all or any part of a village separately assessed to the land-revenue, or separately exempted from payment thereof; and

'Annual value.'

'Annual value' means—

1. Where the settlement of the land-revenue is liable to periodical revision,——double the amount of the land-revenue assessed on an estate;
2. Where such settlement is not liable to periodical revision, or where the land-revenue or a portion thereof has been released, compounded for, redeemed or assigned,——double the amount which, if the settlement were liable to periodical revision, would, but for such non-liability, release, composition, redemption or assignment, have been assessed as land-revenue on the estate.

Rates assessable.

III. The Chief Commissioner may impose on every estate a rate not exceeding one and a quarter per cent. on its annual value. Such rate shall be payable annually by the land-holder, independently of, and in addition to, any land-revenue for the time being assessed on the estate and any local cesses now leviable therefrom.

Recovery of rates.

IV. All sums, due on account of any rate imposed under this Act, shall be recoverable as if they were arrears of land-revenue due in respect of the land on account of which the rate is payable.

Power to recover share of rate from co-sharers or pattidárs.

V. Every landholder may recover from his co-sharers or pattídárs, if any, a share of the rate bearing the same proportion to the whole rate that the annual value of the share of such co-sharer or pattídár recorded at the time of the settlement, bears to the annual value of the whole estate.

Power to recover share of rate from under-proprietor, permanent lessee or occupancy tenant.

VI. Whenever the rate is charged on a land-holder on account of land in the use or occupation of an under-proprietor or permanent lessee, or of a tenant with right of occupancy, whose rent has been fixed or recorded by a competent Court, such land-holder may realize from such under-proprietor, lessee or tenant a share of the rate bearing the same proportion to the whole rate that the share of such under-proprietor, lessee or tenant in the annual value of the land on which the rate is charged, bears to half the annual value of such land.

Jurisdiction over suits as to rates.

VII. Suits for the recovery from co-sharers, under-proprietors, permanent lessees or tenants as aforesaid of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts of Revenue in Oudh, and the provisions of the Oudh Rent Act (No. XIX of 1868), chapters VII, VIII and IX, as to similar classes of suits, shall apply to the suits mentioned in the former part of this section.

Appeal to Commissioner.

VIII. An appeal shall lie to the Commissioner from the order of any person authorized, under the power hereinafter conferred, to make assessments, in any matter connected with the assessment of any sum leviable under this Act: provided that such appeal be presented within thirty days from the date of the order.

The decision of the Commissioner on such appeal shall be final; but all such decisions may be reviewed by the Chief Commissioner.

General fund.

IX. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund.

Assignments for local purposes.

X. The Chief Commissioner shall, from time to time, assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes—

(1)—The construction, repair, and maintenance of roads and communications;

(2)—The construction and repair of school-houses, the maintenance and inspection of schools, the establishment of scholarships, and the training of teachers;

(3)—The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, and tanks, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works and undertakings of public utility likely to promote the public health, comfort or convenience.

Such assignment shall not be less than the total sum assessed under this Act in such district in the year in which the assignment was made.

Unexpended portion of assignment.

XI. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Chief Commissioner, be re-assigned for expenditure in the district, or may be applied for the benefit of the Province of Oudh in such manner as the Chief Commissioner from time to time directs.

Accounts of receipts.

XII. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of the assignment made under Section 10 shall be kept in each district,

Such accounts shall, at all reasonable times, be open to the inspection of the local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all resonable times, to public inspection at suitable places within the district without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

Appointment of Committees.

XIII. The Chief Commissioner shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of assisting in determining how the amount mentioned in Section 10 shall be applied, and in the supervision and control of the expenditure of such amount :

Provided that not less than one-half of the members of such Committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein.

The Chief Commissioner shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or removed, and shall define the functions and authority of such Committee.

Power to make supplementary rules.

XIV. The Chief Commissioner may, by notification, from time to time,

(a) prescribe by what instalments and at what times any rate imposed under this Act shall be payable, and by whom it shall be assessed, collected and paid :

(b) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement; and

(c) exempt any portion of the territories under his administration from the operation of this Act.

Every notification under this section shall be published in the local official Gazette.

ACT No. XVIII. OF 1871.

THE NORTH-WESTERN PROVINCES LOCAL RATES' ACT, 1871.

1. Short title. Extent of Act.
2. Interpretation.
3. Rate on estates where the settlement has expired.
4. Rate on estates where revenue is not periodically revised.
5. Rate to be paid by landlord.
6. Lieutenant-Governor to prescribe rules for ascertaining area of assessable land.
7. Landlord's right to recover half rate from tenants.
8. Power to make rules as to recovery of rates from tenants holding at fixed rates.
9. Rates to be carried to general fund.
10. Assignments from general fund.
11. Works benefiting several districts.
12. Unexpended portion of assignment.
13. Accounts to be kept.
14. Local committees.
15. Suits under this Act to be cognizable by Collector.
16. Limitation of appeals
17. Power to invest subordinate Officers with powers of Collector.
18. Recovery of rates.
19. Supplementary powers of Local Government.

An Act for the levy of Rates on Land in the North-Western Provinces.

Preamble.

Whereas it is expedient to provide, in the North-Western Provinces of the Presidency of Fort William, for the levy on land of rates to be applied to local purposes; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

I. This Act may be called "The North-Western Provinces Local Rates' Act, 1871:"

Extent of Act.

It extends only to the territories subject to the Lieutenant-Governor of the North-Western Provinces; and it shall come into force on the passing thereof.

Interpretation.

II. In this Act—

"Commissioner" means Commissioner of a Division; "Collector" means the Head Revenue Officer of a district;

"Land" means land used for agricultural purposes, or waste land which is cultivable;

"Tenant" means any person using or occupying land, and liable to pay or deliver rent therefor;

"Landlord" means the person responsible for the payment of the Government land-revenue, if any, assessed on an estate, and includes a muafidár, nazránádár or other person holding land, whereof the revenue has, either wholly or in part, been released, compounded for, redeemed or assigned;

"Estate" means all or any part of a village separately assessed to the land-revenue, or separately exempt from the payment thereof.

II.—RATES ON LAND IN DISTRICTS OF WHICH THE SETTLEMENT IS LIABLE TO REVISION.

Rate on estates where the settlement has expired.

III. Every estate situate in any district in which the term of the settlement of the land-revenue made under Regulation IX of 1833 has expired, shall be liable to the payment of such rate, not exceeding five per cent. on its annual value, as the Lieutenant-Governor, from time to time, imposes.

Such rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate:

Provided that, in estates, in which before the passing of this Act provisional engagements have been taken from the landlord for the payment of the land-revenue and cesses in one consolidated sum, and in which it appears to the Lieutenant-Governor inexpedient to cancel such engagements, one-eleventh part of such sum shall be deducted on account of such cesses, and shall be treated in all respects as if it were a portion of rate levied under the former part of this section.

"Annual value" means as follows:—

(1).—In cases in which the settlement of the land-revenue is liable to periodical revision, it means double the amount of the land-revenue for the time being assessed on an estate;

(2).—In cases in which such settlement is not liable to such revision, or in which the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned, it means double the amount which, if the settlement were liable to such revision, would be assessable as land-revenue on the estate.

III.—Rates on Land in Estates of which the Land-revenue is not liable to periodical Revision.

Rate on estates where revenue is not periodically revised.

IV. Every estate situated in a district of which the land-revenue is not liable to periodical revision, shall be liable to the payment of such rate as the Lieutenant-Governor from time to time imposes, not exceeding two annas for each acre under cultivation, or which has been cultivated within the three years next before the assessment of the rate.

Rate to be paid by landlord.

V. The rate shall be paid by the landlord independently of, and in addition to, any land-revenue assessed on the estate and in addition to the cess levied now on account of roads.

Lieutenant-Governor to prescribe rules for ascertaining area of assessable land.

VI. The Lieutenant-Governor shall, from time to time, prescribe rules for ascertaining the area of the land assessable under Section 4.

Landlord's right to recover half rate from tenants.

VII. The landlord may recover, from every tenant of land on which such rate has been assessed, and for the payment of which the landlord is liable, an amount equal to one-half of the rate assessed on the land held by such tenant.

Power to make rules as to recovery of rates from tenants holding at fixed rates.

VIII. The Lieutenant-Governor may, from time to time, make rules consistent with this Act for determining the cases in which a landlord shall be entitled to recover, from tenants holding at fixed or beneficial rates of rent, the whole or any portion of the rate assessed on the land held by such tenants.

IV.—Manner in which the Rates are to be expended.

Rates to be carried to general fund

IX. The proceeds of all rates levied under this Act shall be carried to the credit of a general provincial fund.

Assignments from general fund.

X. The Lieutenant-Governor shall, from time to time, assign from such fund an amount to be applied in each district for expenditure on all or any of the following purposes :—

(1).—The construction, repair and maintenance of roads and communications ;

(2).—The maintenance of the rural police and district post ;

(3).—The construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships ;

(4).—The construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells and tanks ; the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

Such assignment shall not be less than the total sum levied under this Act in such district in the year in which the assignment was made.

Works benefiting several districts.

XI. In the case of works which benefit more districts than one the Local Government may determine what proportion of the expense of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

Unexpended portion of assignment.

XII. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Lieutenant-Governor, be re-assigned for expenditure in the same district, or may be applied for the benefit of the North-Western Provinces, in such manner as the Lieutenant-Governor from time to time directs.

Accounts to be kept.

XIII. Accounts of the receipts in respect of all rates levied under this Act, and of the receipts and expenditure of such assignment, shall be kept in each district.

Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned.

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable places within the district, without the payment of any fee.

An abstract of such accounts shall also be published annually in the local official Gazette.

Local Committees.

XIV. The Local Government shall appoint, in each district, a Committee, consisting of not less than six persons, for the purpose of determining how the amount mentioned in Section 10 shall be applied, and *in** the supervision and control of such amount :

Provided that not less than one-half of the members of such Committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein.

The Lieutenant-Governor shall, from time to time, prescribe the manner in which the members of such Committee shall be appointed or

* So in the *Gazette*.

removed, and shall define the functions and authority of such Committee.

Suits under Act cognizable by Collector.

XV. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Collector as if such suits had been included among the suits mentioned in Section 23 of Act No. X. of 1859, and in Section 1 of Act No. XIV. of 1863, and appeals from decisions in such suits shall be cognizable in accordance with the provisions of Act No. X. of 1859 and Act No. XIV. of 1863.

Limitation of appeals.

XVI. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie to the Commissioner from the order of the Collector, provided that such appeal be presented within thirty days from the date of the order. The Commissioner's decision on such appeal shall be final; but all such decisions may be reviewed by the Board of Revenue.

Power to invest subordinate officer with powers of Collector.

XVII. The Lieutenant-Governor may invest any officer subordinate to a Collector with all or any of the powers of a Collector for the purposes of this Act. The order passed by any officer so invested shall be subject to revision by the Collector of the district.

Recovery of rates.

XVIII. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land revenue due on the land on account of which the rate is payable.

Supplementary powers of Local Government.

XIX. The Lieutenant-Governor may, by notification from time to time,

(*a*) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid;

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(*c*) exempt any portion of the territories under his government from the operation of this Act, or exempt any estate from liability to pay the whole or any part of any rate under this Act;

(*d*) direct fresh measurements and vary the assessment accordingly.

Every notification under this Section shall be published in the *Government Gazette*, North-Western Provinces.

ACT No. XIX. OF 1871.

THE BENGAL SESSIONS COURTS' ACT 1871.

1. Short title. Extent and commencement of Act.
2. Local Governments may appoint Sessions Judges and Additional Sessions Judges.
3. Present Sessions Judges and Additional Sessions Judges to be deemed appointed under this Act.
4. Existing local jurisdiction preserved.
5. Powers of Sessions Judges and Additional Sessions Judges so appointed.
6. Local Government to appoint places for the trial of cases.
7. Indemnity-clause.

An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.

Preamble.

Whereas it is expedient to provide for the appointment of Sessions Judges in the territories respectively under the Governments of the Lieutenant-Governors of the Lower and North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

I—VI. Repealed by Act X. of 1872, *Schedule I.*

Indemnity-clause.

VII. No judgment heretofore given, order passed, or proceeding had before any person who at any time has been appointed a Sessions Judge or Additional Sessions Judge or who has been empowered to act as such in Bengal or the North-Western Provinces, shall be deemed to be or to have been invalid, and no suit shall lie in any Court in respect of any such judgment, order or proceeding, merely on the ground that such Sessions Judge or Additional Sessions Judge or person empowered to act as such was not appointed or empowered in conformity to law

ACT No. XX. OF 1871.

THE PUNJAB LOCAL RATES' ACT, 1871.

1. Short title. Local extent. Commencement.
2. Interpretation-clause. 'Land.' 'Landholder' 'Annual value.'
3. Rate assessable.
4. Power to recover a share of rate from tenant.
5. Rates to be carried to general fund.
6. Assignment for local purposes.
7. Works benefiting several districts.
8. Unexpended portion of assignment.
9. Accounts to be kept.
10. Local committees.
11. Suits under this Act to be cognizable by Courts having cognizance of suits for rent.
12. Limitation of appeals.
13. Recovery of rates.
14. Supplementary powers of Local Government.

An Act to provide for the levy of Rates on Land in the Punjab.

Preamble.

Whereas it is expedient to provide for the levy of rates on land in the Punjab to be applied to local purposes; It is hereby enacted as follows:—

Short title.

I. This Act maybe called "The Punjab Local Rates Act, 1871:"

Local extent.

It extends only to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab, inclusive of any territory that may, from time to time, be removed, under the provisions of the Agror Valley Act, 1870, from the jurisdiction of the tribunals established under the general Regulations and Acts;

Commencement.

And it shall come into force on the passing thereof.

Interpretation-clause.

II. In this Act—

'Land.'

'Land' means land assessed to the land-revenue, and includes land whereof the land-revenue has been, wholly or in part, released, compounded for, redeemed or assigned;

'Landholder.'

'Landholder' means any person responsible for the payment of the land-revenue, if any, assessed on land. It also includes a person holding land, the land-revenue of which has been, wholly or in part, released, compounded for, redeemed or assigned;

'Annual value.'

'Annual value' means—

(1). Double the land-revenue for the time being assessed on any land, whether such assessment be leviable or not;

(2). And, where the land-revenue has been permanently assessed, or has been, wholly or in part, compounded for or redeemed—

Double the amount which, but for such permanent assessment, composition or redemption, would have been leviable.

Rate assessable.

III. All land shall be liable to the payment of such rate as the Lieutenant-Governor from time to time directs, not exceeding six pies for every rupee of its annual value. Such rate shall be computed as from the first day of April, 1871, and shall be paid by the landholder independently of, and in addition to, any land-revenue assessed on land for the land-revenue of which he is responsible, and any local cesses now leviable therefrom:

Provided that, wherever the proprietors of any land pay the land-revenue in kind to any assignee of revenue or any village headman, such assignee of revenue or village headman shall be responsible for the payment of the said rate, instead of the proprietors, and no demand shall be made by any such assignee or village headman on any such proprietor in respect of the payment of any such rate.

Power to recover a share of rate from tenant.

IV. Whenever a rate is charged on a landholder in respect of lands held by a tenant with a right of occupancy holding at a favourable rent, such landholder may realize from such tenant a share of the said rate, bearing the same proportion to the whole rate as the excess of the annual value over the rent paid by such tenant bears to half the annual value.

Illustration.

A is landholder of an estate of which the land-revenue is Rs. 50. The annual value, therefore, is Rs. 100, and the maximum rate would be Rupees three, annas two. The estate is held by a tenant with right of occupancy at Rs. 75 rental.

Supposing the maximum rate to be levied, A will be entitled to recover from the tenant Rupee one, annas nine, or half the rate, thus :—

As half the annual value	*is to*	*Excess of the annual value over the tenant's rent*	*so is*	*The whole rate*	*to*	*The portion which the landlord can recover from tenant*
i. e.		*i. e.*		*viz.*		*i. e.*
				Rs. As.		*Rs. As.*
50		25		3 · 2		1 · 9

Rates to be carried to general fund.

V. The proceeds of all rates levied under this Act shall be carried to the credit of the Local Government.

Assignments for local purposes.

VI. The Lieutenant-Governor shall, from time to time, assign from the funds at his disposal an amount to be applied in each district for expenditure on all or any of the following purposes :—

(1).—The construction, repair and maintenance of roads and communications ;

(2).—The construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers, and the establishment of scholarships ;

(3).—The construction and repair of hospitals, dispensaries, lunatic asylums, wells and tanks, the planting and preservation of trees, the payment of all charges connected with the purposes for which such buildings or works have been constructed, and any other local works likely to promote the public health, comfort or convenience.

The aggregate of such assignments in any one year shall not be less than the total sum levied under this Act in such district in the year in which the assignment is made.

Works benefiting several districts.

VII. In the case of works which benefit more districts than one, the Lieutenant-Governor may determine what proportion of the expenses of the work shall be borne by each of the districts benefited thereby, and such proportion shall be payable out of the assignments made as aforesaid to such districts respectively.

Unexpended portion of assignment.

VIII. Any portion of such assignment remaining unexpended at the end of the financial year in which the assignment was made may, at the discretion of the Lieutenant-Governor, be re-assigned for expenditure in the same district, or may be applied for the benefit of the Punjáb, on such one or more of the purposes mentioned in Section 6 as the Lieutenant-Governor from time to time directs.

Accounts to be kept.

IX. Accounts of the receipts in respect of all rates levied under this Act and of the assignments made under Section 6, shall be kept in each district. Such accounts shall, at all reasonable times, be open to the inspection of the Local Committee hereinafter mentioned. An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district, and shall be open, at all reasonable times, to public inspection at suitable

places within the district without the payment of any fee. An abstract of such accounts shall also be published annually in the local official Gazette.

Local committees.

X. The Lieutenant-Governor shall appoint, in each district, a committee, consisting of not less than six persons, for the purpose of determining how the amount mentioned in Section 6 shall be applied, and of supervising and controlling such amount: Provided that not less than one-third of the members of such committee shall be persons not in the service of Government, and owning or occupying land in the district, or residing therein:

The Lieutenant-Governor shall, from time to time, prescribe the manner in which the members of such committee shall be appointed or removed, and shall define the functions and authority of such committee.

Suits under Act to be cognizable by Courts having cognizance of suits for rent.

XI. Suits for the recovery from co-sharers, tenants or others of any sum on account of any rate imposed under this Act, and all suits on account of illegal exaction of such rate, or for the settlement of accounts, shall be cognizable by the Courts which, for the time being, have cognizance of suits for rent due on land.

Limitation of appeals.

XII. In matters connected with the assessment and collection of any sum leviable under this Act, an appeal shall lie from the order of any person authorized under this Act to make assessments, to such person as the Lieutenant-Governor appoints: Provided that such appeal shall be presented within thirty days from the date of such order.

The order of such person on such appeal shall be final.

Recovery of rates.

XIII. All sums due on account of any rate imposed under this Act shall be recoverable as if they were arrears of land-revenue due on the land on account of which the rate is payable.

Supplementary powers of Local Government.

XIV. The Lieutenant-Governor may, by notification from time to time,

(a) prescribe by what instalments and at what times such rate shall be payable, and by whom it shall be assessed, collected and paid;

(b) appoint the person or class of persons to whom the appeals referred to in Section 12 shall lie;

(c) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement;

(d) exempt wholly or in part any portion of the territories under his government from the operation of this Act, or exempt any land from liability to pay the whole or any part of any rate under this Act;

(e) direct fresh measurements and vary the assessment accordingly.

Every notification under this section shall be published in the *Government Gazette*, Punjáb.

ACT No. XXI. OF 1871.

1. Extension of the laws in force in Sahárunpúr to the Dehrá Dún, and confirmation of past proceedings.
2. Jurisdiction of the High Court and Board of Revenue over the Dehrá Dún.
3. District Court of Sahárunpúr to be deemed the District Court of the Dehrá Dún.
4. Saving of Jounsar Bawur from the operation of this Act.

An Act to give validity to the operation of the General Regulations and Acts within the 'Dehrá Dún.'

Preamble.

Whereas it is necessary to give validity to the operation of the General Regulations and Acts within the district under the Superintendent of the Dehrá Dún, and to indemnify all officers and other persons who have acted in the said district under the said Regulations and Acts; It is hereby enacted as follows:—

Extension of the laws in force in Sahárunpúr to the Dehrá Dún, and confirmation of past proceedings.

I. The Regulations and Acts now in force in the district of Sahárunpúr are hereby declared to extend to the said district of Dehrá Dún, and no judgment heretofore given, order passed or proceeding had in the said district, shall be deemed to have been or to be invalid merely because any Regulation or Act, under or in reference to which such judgment, order or proceeding was given, passed or had, was not in force at the time of such judgment, order or proceeding, or on the ground of a defect of jurisdiction in any Court or officer.

Jurisdiction of the High Court and Board of Revenue over the Dehrá Dún.

II. The High Court and the Board of Revenue of the North-Western Provinces shall exercise, and shall be deemed to have been heretofore authorized to exercise, respectively in the said district, all the powers which the said High Court or Board of Revenue are at present respectively authorized to exercise in any part of the North-Western Provinces.

District Court of Sahárunpúr to be deemed the District Court of the Dehrá Dún.

III. The District Court of Sahárunpúr shall be deemed to have been heretofore the District Court of the said district of Dehrá Dún, and shall be the District Court of such district until the Local Government otherwise directs; and may, subject to the provisions of Act VI. of 1871, hear appeals from decisions given in the said district before the passing of this Act.

Saving of Jounsar Bawur from the operation of this Act.

IV. Nothing in this Act shall apply to that portion of the Dehrá Dún district called Jounsar Bawur and referred to in Section 11 of Act XXIV. of 1864.

ACT No. XXII. OF 1871.

1. Amendment of Section 2 Act No. XX. of 1856. To what places the Act shall apply.
2. Amendment of Section 11.
3. Amendment of Section 38. Collection of assessment.
4. Amendment of Section 41.
5. Amendment of Appendices A and C.
6. Saving of Bengal from the operation of this Act.

An Act to authorise the extension of the Chaukídárí Act to places where there is no Jamadár of Police.

Preamble.

Whereas by Act No. XX. of 1856 (*to make better provision for the appointment and maintenance of Police Chaukídár in Cities, Towns, Stations, Suburbs and Bazárs in the Presidency of Fort William in Bengal*), Section 2, the Local Government is restrained from extending that Act to any City, Town Suburb or Bazár, unless there be therein (or in some other City, Town, Suburb or Bazár with which the same may be united as thereinafter provided), a Police Station under an officer of a grade not below that of a Jamadár; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of Section 2, Act No. XX. of 1856.

I. Instead of the second section of the said Act, the following shall be read:—

To what places the Act shall apply.

"II. The provisions of this Act shall have effect in all Cities, Stations, Towns, Suburbs and Bazárs in the said Presidency to which the Local Government may, at any time, extend the same by notification in the Official Gazette: Provided, always, that this Act shall not be extended to any agricultural village.

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section."

Amendment of Section 11.

II. Instead of Section 11 of the said Act, the following shall be read:—

Limitation of tax.

"XI. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a Chaukídár of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof."

Amendment of Section 38.

III. Instead of Section 38 of the said Act, the following shall be read:—

Collection of assessment.

"XXXVIII. On such dates as may be fixed by the Panchayats for payment of instalments of the tax, the Tax-Darogah shall proceed in person, or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected, the Darogah shall grant a receipt: Provided, that, with the sanction of the Commissioners of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter."

Amendment of Section 41.

IV. In the forty-first section of the said Act, instead of the words "On the 20th of each calendar month," there shall be read the words "On the 10th day after the date fixed for the payment of instalments of the tax."

Amendment of appendices A and C.

V. In Appendix A, at the end of the first paragraph, the words "and the aggregate amount assessed shall not exceed the average rate of two annas per mensem for each house, shop or building in the district," shall be omitted. In Appendix C, the words "the first payment on the 10th day of the month next succeeding the date of this Notification, and every subsequent payment on or before the 10th day of each succeeding month," shall be omitted.

Saving of Bengal from the operation of this Act.

VI. This Act shall be read with, and taken as part of, the said Act XX. of 1856, but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.

ACT No. XXIII. OF 1871.

THE PENSIONS' ACT, 1871.

1. Short title. Extent of Act. Commencement.
2. Enactments repealed. Saving of rules.
3. Interpretation.
4. Bar of suits relating to pensions.
5. Claims to be made to Collector, Deputy Commissioner, or other authorized Officer.
6. Civil Court when to take cognizance of such claims.
7. Pensions for lands held under grants in perpetuity.
8. Payment to be made by Collector, Deputy Commissioner, or other authorized Officer.
9. Saving of rights in respect of the recovery of land-revenue.
10. Commutation of pensions.
11. Pension exempted from attachment.
12. Assignments, &c., in anticipation of pension to be void.
13. Reward to informers.
14. Power to make rules.

An Act to consolidate and amend the law relating to Pensions and Grants by Government of Money or Land-revenue.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Pensions and Grants by Government of Money or Land-revenue; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

I. This Act may be called "The Pensions' Act, 1871:"

Extent of Act.

It extends to the whole of British India;

Commencement.

And it shall come into force on the date of the passing thereof, but not so as to effect any suit in respect of a pension or grant of money or land-revenue which may have been instituted before such date.

Enactments repealed.

II. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule.

But all rules in regard to the award and payment of pensions or grants of money or land-revenue, and the identification of the persons entitled to receive them, made under any such enactment, shall be deemed to have been made under this Act so far as they are consistent therewith.

Saving of rules.

III. In this Act, the expression "grant of money or land-revenue" includes anything payable on the part of Government in respect of any right, privilage, perquisite or office.

Interpretation.

II.—Rights to Pensions.

IV. Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant many have been substituted.

Bar of suits relating to pensions.

V. Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District, or Deputy Commissioner or other officer authorized in this behalf by the Local Government, and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the chief Revenue Authority may, subject to the general control of the Local Government, from time to time, prescribe in this behalf.

Claims to be made to Collector, Deputy Commissioner, or other authorized Officer.

VI. A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

Civil Court when to take cognizance of such claims.

VII. Nothing in Sections 4 and 6 applies to—

(1) any inam of the class referred to in the first Section of Madras Act No. IV of 1862;

(2) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

Pensions for lands held under grants in perpetuity.

III.—Mode of Payment.

VIII. All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner, or other authorized officer, subject to such rules as may, from time to time, be prescribed by the chief controlling Revenue Authority.

Payment to be made by Collector, Deputy Commissioner, or other authorized Officer.

Saving of rights in respect of the recovery of land-revenue.

IX. Nothing in Sections 4 and 8 shall affect the right of a grantee of land-revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

Commutation of pensions.

X. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grant of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

IV.—Miscellaneous.

Pension exempted from attachment.

XI. No pension granted or continued by Government on political considerations, or on account of past services or present infirmities, or as a compassionate allowance, and no money due or to become due on account of any such pension or allowance, shall be liable to seizure, attachment or sequestration by process of any Court in British India, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

Assignments, &c., in anticipation of pension to be void.

XII. All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in Section 11, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

Reward to informers.

XIII. Whoever proves to the satisfaction of the Local Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof, shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

Power to make rules.

XIV. The chief controlling Revenue Authority may, with the consent of the Local Government, from time to time, make rules consistent with this Act, respecting all or any of the following matters :—

(1).—The place and times at which, and the person to whom, any pension shall be paid,

(2).—Inquiries into the identity of claimants;

(3).—Records to be kept on the subject of pensions;

(4).—Transmission of such records;

(5).—Correction of such records;

(6).—Delivery of certificates to pensioners;

(7).—Registers of such certificates;

(8).—Reference to the Civil Court under Section 6, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government,

and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

SCHEDULE.

I.—Bengal Regulations.

Number and year.	Title or Subject.	Extent of Repeal.
XXIV of 1793 ..	A Regulation for re-enacting, with modifications, the Rules passed by the Governor-General in Council on the 10th June, 1791, for determining the continuance or discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of Land, but included in the Jumma or Revenue payable to Government at the Decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished.	The whole.
XXXIV of 1795 ...	A Regulation for re-enacting, with modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.	The whole.
XXIV of 1803 ...	A Regulation for trying the validity of titles of Persons receiving, or claiming a right to receive Pensions, under the denominations of Saleanah, Rozenah, or any other description of Grant, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East Indian Company.	The whole.
I of 1804 ..	A Regulation for the better management of the Invalid Jagheerdar Establishments, and of the Invalid Pension Establishments.	Sections 23 to 26 inclusive.
XXII of 1806 ...	A Regulation for modifying the Rules hitherto observed in the admission and payment of Claims to Pensions.	The whole.
II of 1811 ...	A Regulation for amending the existing Rules for the support of Invalid Native Commissioned and Non-Commissioned Officers.	The whole.
XI of 1813 ..	A Regulation for modifying some of the Rules before established respecting the payment of Pensions, and for preventing the abuses committed in the receipt of Pensions.	The whole.
VI of 1817 ...	A Regulation to explain the purport and intent of the provision contained in Section 2, Regulation XXIV 1803.	The whole.

II.—Madras Regulations.

I of 1803 ...	A Regulation for defining the duties of the Board of Revenue, and for determining the extent of the powers vested in the Board of Revenue.	Section 43.
II of 1803 ..	A Regulation for describing and determining the conduct to be observed by Collectors in certain Cases.	Section 30.
IV of 1831 ...	A Regulation for better securing to the Grantees personal or hereditary Grants of money or of land-revenue, conferred by the Government in consideration of services rendered to the State, or in lieu of resumed offices or privileges, or of Zamindaries, or Pollams forfeited or held under attachment or management by the officers of Government, or as Yeomiahs or Pensions.	The whole.

III.—BOMBAY REGULATION.

Number and year.	Title or Subject.	Extent of Repeal.
XXIX of 1827 ...	A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh.	Section 6, Clauses 2 & 3.

IV.—ACTS.

XXXI of 1836 ...	Government Grants	The whole.
XXIII of 1838 ...	Exemption of Grants from attachment ...	The whole.
IV of 1849 ...	An Act for securing Military and Naval Pensions and Superannuation Allowances.	The whole.

ACT No. XXIV. OF 1871.

THE LOCAL PUBLIC WORKS' LOAN ACT.

1. Title, extent and commencement.
2. Loans to be based on security of public property or taxes.
3. Loans not to be effected except under this Act.
4. Power to make rules.
5. Remedy by attachment, if loan be not repaid Attachment not to defeat prior charges legally made.
6. Local Government may authorize parties to borrow from private persons. Procedure on such loan not being repaid.
7. Existing loans
8. Local Governments to comply with special directions of the Government of India.
9. Saving of charitable or religious foundations, and special powers of certain municipalities.

Title.

I. This Act may be called "The Local Public Works' Loan Act, 1871:"

Extent and commencement.

It shall extend to the whole of British India, and shall come into force upon the passing thereof.

Loans to be based on security of public property or taxes.

II. Any body corporate, municipal committee, or other persons legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax upon any persons in any local limits, may apply to the Local Government for a loan on the security of any such fund, cess, rate, duty or tax, or of any property vested in such body, committee or persons for the purposes of such fund in the manner hereinafter mentioned.

Loans not to be effected except under Act.

III. No such body corporate, municipal committee, or other persons shall borrow money upon or otherwise charge any such fund, cess, rate, duty, tax or property otherwise than in the manner hereinafter mentioned; and any contract made for that purpose after the passing of this Act shall be void.

Power to make rules.

IV. The Governor-General in Council may make, and from time to time amend and alter, rules as to

(1) the nature of the fund, rates, cesses, duties, taxes or property on the security of which loans may be made;

(2) the works for which loans may be made;

(3) the manner of making applications for loans;

(4) the inquiries to be made in relation to such loans, and the manner of conducting such enquiries;

(5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;

(6) the cases in which the Local Government may make loans without the previous sanction of the Governor-General in Council, and the cases in which such previous sanction must be obtained;

(7) the manner of recording and enforcing the conditions on which such loans are to be made;

(8) the manner and time of making loans;

(9) the inspection of works carried out by loans;

(10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;

(11) the sum to be charged against the fund, cess, rate, duty, tax or property which is to form the security for the loan, as costs in effecting the loan;

(12) the accounts to be kept in respect of loans;

(13) the attachment of securities and the manner of disposing of or collecting them;

and as to all other matters incidental to carrying this Act into effect.

All such rules shall be published in the *Gazette of India.*

Remedy by attachment, if loan be not repaid.

V. If any loan made under this Act, or the interest accrued thereupon, is not repaid according to the conditions of the loan, the Local Government may attach the fund, rate, cess, tax, duty or property on the security of which the loan was made; after such attachment, no person except an officer appointed by the Local Government shall in any way deal with the attached fund, rate, cess, tax, duty or property: but such officer may do all acts in respect thereof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interest and charges due in respect thereof, and of all expenses involved by the attachment and subsequent proceedings: Provided that, no such attachment shall defeat or prejudice any debt for which the fund, cess, rate, tax, duty or property attached was previously pledged in accordance with law, but all such prior charges shall be paid out of the proceeds of the fund, cess, rate, tax, duty or property attached, before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Attachment not to defeat prior charges legally made.

Local Government may authorize parties to borrow from private persons.

VI. Local Government, with the previous sanction of the Governor-General in Council, may authorize any body corporate, municipal committee or other persons who might have borrowed money from Government under this Act upon any security, to borrow money from any other person upon such security; and if any such loan or the interest accrued be not duly repaid, the Local Government shall, upon the application of the lender, exercise for his benefit the same powers as if the loan had been made by Government under this Act.

Procedure on such loan not being repaid.

Existing loans.

VII. The Governor-General in Council, or the Local Government, may declare that any person who, before the passing of this Act, has lent money to any such body corporate, municipal committee or other persons, as are mentioned in Section 2, shall be entitled to the remedy mentioned in Section 6 for the recovery thereof or of the interest due thereupon ; and the Government of India may, in the case of any such loan granted by itself, direct the Local Government to proceed under Section 6 in respect of any such loan.

Local Government to follow directions of Government of India.

VIII. The Local Government shall exercise the discretionary powers given by this Act, according to any direction in that behalf which it may receive in any particular case from the Governor-General in Council.

Saving of charitable, &c., foundations, and of special powers of certain Municipalities.

IX. Nothing in this Act shall apply to any charitable or religious foundation, or be deemed to preclude the Municipalities of Calcutta, Madras or Bombay from exercising the borrowing powers conferred on them by any special law.

ACT No. XXV. OF 1871.

THE RAILWAY ACT AMENDMENT ACT, 1871.

1. Short title. Construction. Commencement.
2. Amendment of certain Sections of Act XVIII. of 1854. Railway Fares to be pre-paid.
Penalty for refusing to give up Passenger Ticket on demand.
Construction of the words "cattle" and "public road."
Penalties for cattle-trespass within fences: and for wilfully driving cattle upon a Railway.
Power to make rules as to fences, gates, and bars.
Power of Company or Controlling Officer to make rules. Publication of rules.
Penalty for endangering the safety of persons.
3. Addition of Section XLIV.
Power to declare by what authority powers of Local Government are to be exercised.
4. Amendment of part of Section 3, Act XIII. of 1870.

An Act to amend the Railway Act.

Preamble.

Whereas it is expedient further to amend Act No. XVIII. of 1854, *(relating to Railways in India)*; It is hereby enacted as follows :—

Short title.

I. This Act may be called "The Railway Act Amendment Act, 1871:"

Construction.

It shall be read with, and taken as part of, the said Act No. XVIII. of 1854, *(relating to Railways in India)*; and Act No. XIII. of 1870 *(to apply the provisions of Act No. XVIII. of* 1854 *to Railways belonging to, or worked by, Government)*; and it shall come into force on the passing thereof.

Commencement.

Amendment of certain Sections of Act XVIII. of 1854.

II. Act XVIII. of 1854 shall be read as if, for Sections 1, 18, 19, 20, 21, 26, and 29, of the said Act, the following sections were substituted :—

'Railway.'

"I. For the purposes of this Act, 'Railway' includes land within the fences or other boundary-marks prescribed under Section 21, and all lines of rail, sidings or branches,

worked over by locomotive engines for the purposes of, or in connexion with a Railway; also all stations, offices, warehouses, fixed machinery and other works constructed, or being constructed for the purposes of, or in the connexion with, a Railway.

Fares to be pre-paid.

No person shall enter any carriage used on any such Railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket. Every person desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of any such Company duly authorized to examine the same, and shall deliver up such ticket upon demand, to any of the Company's servants duly authorized to collect tickets. Any person, not producing or delivering up his ticket as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Passenger tickets to be given up on demand. Penalty.

"XVIII. The word 'cattle' shall have the meaning attached to it in the Cattle-Trespass Act, 1871, and the expression 'public road' in Sections 11 and 26, of the said Act, shall be deemed to include a Railway.

Construction of the words "cattle," and "public road."

Any person employed on a Railway may exercise the powers of seizure provided by the said Section 11."

"XIX. The owner or person in charge of any cattle-trespassing, or straying on any Railway provided with fences suitable for the exclusion of cattle, shall, on conviction before a Magistrate, be liable to a fine not exceeding 10 Rupees for each animal, in addition to any amount that may be recovered under the Cattle-Trespass Act."

Penalty for cattle-trespass within fences of a Railway.

"XX. Whenever cattle are wilfully driven or knowingly permitted to be on any Railway provided with fences suitable for the exclusion of cattle, otherwise than for the purpose of crossing the Railway at a gate or bar provided for public use, the person in charge of such cattle, or if he cannot be identified, then the owner of the said cattle, shall, on conviction before a Magistrate, be liable to a fine not exceeding 50 Rupees for each animal, in addition to any amount that may be recovered under the said Act.

Penalty for wilfully driving cattle upon a Railway.

Fines imposed under this or the preceding section may be recovered in the manner provided by Section 25 of the said Act."

"XXI. The Governor-General in Council, or the Local Government, with the sanction of the Governor-General in Council, shall make rules, and may in like manner, from time to time, vary the same, for the provision of boundary-marks or fences for any Railway or any part thereof, and for roads constructed in connexion therewith, and of gates or bars at places where any Railway crosses a road on the level, and for the employment of persons to open and shut such gates or bars; and may by such rules determine what kind of fences shall, for the purposes of Sections 19 and 20, be deemed to be suitable for the exclusion of cattle."

Power to make rules as to fences, gates and bars.

Power of Company or Controlling Officer to make rules and regulations.

"XXVI. Every Railway Company, or, in the case of a Railway not managed by a Company, the officer for the time being entrusted with the control of such Railway, shall make general rules and regulations for the use, working and general administration of the Railway, and may in like manner, from time to time, vary the same.

Publication of such rules.

All such general rules and regulations or variations thereof, shall be submitted to the Governor-General in Council for sanction, and, when sanctioned, shall be published in the *Gazette of India,* and shall be otherwise notified to the public and to the officers and persons employed upon such Railway in such a manner as the Governor-General in Council, from time to time, directs.

Any such rule or regulation may contain a provision that any person committing a breach of it shall be liable to a fine not exceeding 50 Rupees ; or, in default of payment of such fine, to imprisonment of either description for a term which may extend to two months.

The Governor-General in Council may at any time cancel any rule or regulation so sanctioned.

Any Justice of the Peace may try an European British subject for an offence under this section, and on conviction award a sentence within the limits thereby prescribed for such offence."

Penalty for endangering the safety of persons.

"XXIX. If any officer or person employed upon a Railway endangers the safety of any person by

(1) disobeying any general rule or regulation sanctioned and notified in the manner prescribed by Section 26 ; or,

(2) disobeying any rule or order not inconsistent with the general rules or regulations aforesaid, and which he was bound by the terms of his service to obey, and of which he had notice ; or

(3) by any rash or negligent act or omission, he shall be liable to imprisonment of either description for any term not exceeding three years, or to fine not exceeding 500 Rupees, or to both."

Addition of Section XLIV.

III. After Section XLIII of the said Act, the following section shall be added :—

Power to declare what Government shall be deemed the Local Government.

"XLIV. The Governor-General in Council may, from time to time, by notification in the *Gazette of India,* declare what Government shall be deemed to be the Local Government in respect of the whole or any part of a Railway for the purposes of the Act."

Amendment of part of Section 3, Act XIII. of 1870.

IV. Instead of so much of Section 3 of Act XIII. of 1870 as begins with the words "but in Sections 17" and ends with the section, the following shall be read :—

" but in Sections 17, 23, 41 and 42 the expressions 'Railway Company,' 'such Railway Company,' 'the Company,' and 'they' (when referring to a Company) shall mean the officer for the time being entrusted with the control of such Railway."

Act No. XXVI. of 1871.

THE LAND IMPROVEMENT ACT, 1871.

Preamble.

CHAPTER I.

Preliminary.

1. Short title. Local extent. Commencement.
2. Repeal of enactments.
3. Interpretation-clause.

CHAPTER II.

Advances of Money for making Improvements.

4. Application for advance.
5. Procedure on receiving application.
6. When advance to landlord may be sanctioned.
7. Procedure when applicant is a tenant.
8. Proof of service of notice.
9. Nature of notice.
10. When advance to tenant may be sanctioned.
11. Notice of application by tenant unable to furnish security to be served on landlord.
12. Service of such notice, and particulars to be specified therein.
13. Advance not to be sanctioned when dissent is made by landlord.
14. Contents of certificates under Act.
15. Advances recoverable as arrears of land-revenue.
16. Sums expended on account of costs to be recovered as part of advance.
17. Advance not to raise presumption of ownership.

CHAPTER III.

Supplementary Powers.

18. Power to make rules. Schedule.

An Act to consolidate and amend the law relating to advances of money by the Government for agricultural improvements.

Preamble. Whereas it is expedient to consolidate and amend the law relating to advances of money by the Government for agricultural improvements; It is hereby enacted as follows:—

CHAPTER I.

Preliminary.

Short title. I. This act may be called "The Land Improvement Act, 1871:"

Local extent. It extends to the whole of British India;

Commencement. And it shall come into force on the passing thereof.

Repeal of enactments. II. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column thereof, except as to the recovery of any advances made thereunder previous to the passing of this Act.

Interpretation-clause. III. In this Act—

'Land.' 'Land' means land used for agricultural purposes, or waste land which is culturable.

'Rent.' 'Rent' means whatever is payable or deliverable for the use or occupation of land:

'Landlord' includes a superior, intermediate or immediate proprietor, and any person under direct engagement with the Government for the payment of the revenue assessed upon any land :

'Landlord.'

'Tenant' means any person actually using or occupying land, and liable to pay or deliver rent therefor :

'Tenant'

'Improvement'

'Improvement' means—

1*st*, wells, tanks and other works for the storage, supply or distribution of water for agricultural purposes, or the preparation of land for irrigation ;

2*nd*, works for the drainage of land ;

for the reclaiming of land from rivers, or other waters ;

for the protection of land from floods, or from erosion or other damage by water ;

3*rd*, the reclaiming, clearing or enclosing of lands for agricultural purposes ;

4*th*, the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto ;

'Collector' means the Collector of land-revenue, or the Deputy Commissioner, or any officer authorized by the Local Government to exercise the powers of a Collector under this Act.

'Collector.'

CHAPTER II.

ADVANCES OF MONEY FOR MAKING IMPROVEMENTS.

IV. Any landlord or tenant desiring to make an improvement in any land of which he is in possession or occupation, and to obtain an advance of money to enable him to make such improvement, may make an application to the Collector for such advance, stating the nature and amount of any security which he proposes to furnish for the repayment of such advance.

Application for advance.

V. On receiving such application, the Collector shall make such enquiry as he deems necessary to ascertain if the proposed improvement will admit of the advance being made conformably to the rules to be framed under the third clause of Section 18. If after such enquiry the Collector is of opinion that the advance may be so made, he shall proceed in the manner hereinafter provided, but if it should appear that the advance cannot be so made, he shall reject the application.

Procedure on receiving application.

VI. If the applicant is a landlord, and the value of the land for the improvement of which the advance is asked, or of any other security which may be tendered, or of both, be not less than the amount of the proposed advance, the Collector may grant a certificate sanctioning the advance.

When advance may be sanctioned to landlord.

VII. When the applicant is a tenant, and proposes to furnish, as security for the re-payment of the advance, any interest alleged to be transferable which he possesses in the land to be improved or any other land, or any

Procedure when applicant is a tenant.

other adequate security, the Collector shall serve notice of the application on the landlord personally;

or, if service on him personally cannot be effected, a copy of the notice shall be affixed to some conspicuous place in the Collector's office, and on the house in which the landlord resides; or, if he does not reside in the district in which the application is made, or if his residence is not known, the notice shall be served on the person who acts as the local agent for the landlord in respect of the said land.

Proof of service of notice.

VIII. No such notice shall be deemed to have been served unless the service is acknowledged by the landlord or his agent, or the fact of its having been duly made is otherwise established to the satisfaction of the Collector.

In any case in which there are more shareholders than one, and any shareholder or other person acts as a manager on behalf of the shareholders, service on him shall be deemed to be service on each of the shareholders.

Nature of notice.

IX. Such notice shall specify the sum applied for, the nature of the improvement to be made, the nature of the security proposed for the advance, and shall inform the landlord that, if he desires to make any objections to the advance, he must, within one month after service of notice, signify them in writing to the Collector.

When advance may be sanctioned to tenant.

X. If the landlord or his local agent or manager does not so signify such objections, or if the Collector, after considering such objections, is of opinion that the applicant has a transferable interest in the land specified in his application, and that the value of such interest either singly or taken jointly with other security furnished by him is not less than the amount of the advance, he may grant to the applicant a certificate sanctioning the advance.

Notice of application by tenant unable to furnish security to be served on landlord.

XI. When the applicant is a tenant, and cannot furnish security of the nature referred to in Section 7, the Collector shall serve notice of the application on the landlord.

Service of such notice, and particulars to be specified therein.

XII. Such notice shall be served in the manner provided in Sections 7 and 8. It shall specify the amount of the proposed advance and the nature of the improvement to be made, and shall inform the landlord, that, if he does not within one month after such service signify in writing to the Collector his dissent from the proposed improvement, he will be deemed to have assented thereto and to have agreed that the land, for the improvement of which the advance is to be made, shall be pledged as security for the recovery of the advance.

Advance not to be sanctioned when dissent is made by landlord.

XIII. If the landlord so signifies his dissent, and after the Collector has explained his reasons for thinking the improvement desirable, the landlord does not withdraw such dissent, the Collector shall not grant the certificate.

If the landlord does not signify his dissent, or, having dissented, subsequently withdraws his dissent, and the value of the land to be improved, or the value of such land together with that of any other security furnished by the applicant, is not less than the amount of the

advance, the Collector may grant to the applicant a certificate sanctioning the advance.

Contents of certificates under Act.

XIV. Every certificate granted under this Act shall specify—

(*a*) the amount of the advance;

(*b*) the conditions under which it is to be made and recovered;

(*c*) the position, extent and boundaries of the land to be improved;

(*d*) the nature and amount of the security furnished (if any), other than the land to be improved.

Advances recoverable as arrears of land-revenue.

XV. All sums stated in a certificate granted under this Act shall, when they become due, be recoverable from the person to whom the advance was made, or from any person who has become security for the repayment thereof, as if they were arrears of land-revenue due by the person to whom the advance was made or by his security.

If any such sum cannot be so recovered, it shall be recoverable as if it was an arrear of revenue due on the land specified in the said certificate:

Provided that when the person to whom the advance was made is a landlord or a tenant having a right to transfer his interest in the land without the consent of the landlord, the interest of no person, other than such landlord or tenant, in the said land shall be sold under this Section.

Sums expended on account of costs to be recovered as part of advance.

XVI. Any sums expended by the Collector in accordance with the rules made under Section 18, on account of costs of the Government in giving effect to this Act, shall be recoverable as if they were part of the advance in connection with which they were expended.

Advance not to raise presumption of ownership.

XVII. In any case in which a landlord has agreed, under Section 13, that the land, for the improvement of which an advance under this Act is made, shall be pledged as security for such advance, such improvement shall not be deemed to confer upon the tenant any right to, or interest in, such land, or to alter the respective rights or interests of landlord and tenant therein.

CHAPTER III.

SUPPLEMENTARY POWERS.

Power to make rules.

XVIII. The Local Government, with the previous sanction of the Governor-General in Council, shall make rules consistent with this Act in all matters connected with its enforcement, and may, with the same sanction, from time to time, alter and add to the rules so made.

Such rules shall make provision for—

1*st*, the manner of making applications for advances under the Act;

2*nd*, the manner of conducting enquiries relative to such applications;

3*rd*, the conditions under which advances are to be made, and the manner and time of making advances;

4*th*, the inspection of works carried out by advances made under this Act;

5th, the instalments by which advances shall be repaid, the interest to be charged on advances, and the manner and time of repaying advances and discharging the interest charged on the same.

6th, the manner of keeping and auditing the accounts of the expenditure of advances, of the repayment of the same, and of the discharge of the interest thereon.

SCHEDULE.

BENGAL REGULATIONS.

Number and Year.	Title.	Extent of repeal.
II, 1793 ...	A Regulation for abolishing the Courts of Maal Adawlut or Revenue Courts, and transferring the Trial of the Suits which were cognizable in those Courts to the Courts of Dewanny Adawlut; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	Sections 23 and 44.
XIV, 1793 ...	A Regulation for the recovery of Arrears of the public Revenue assessed upon the Lands from Zemindars, independent Talookdars, and other actual Proprietors of Land, and Farmers of Land holding Farms immediately of Government.	Section 40.
XXXIII, 1793 ...	A Regulation for re-enacting, with modifications, the Rules passed on the 11th February and 21st October, 1791, for repairing the embankments kept in repair at the public expense, and for encouraging the digging of Tanks or Reservoirs and Water-courses, and making Embankments.	The whole.
III, 1794 ...	A Regulation for exempting Proprietors of Land (with certain exceptions) from being confined for Arrears of Revenue; and for prescribing the process by which Tehseeldars are to demand payment of Arrears; and for enabling the Collectors to recover from Native Officers employed under them, public Money or Papers which they may embezzle or retain; and for expediting the trial of Causes relating to the public Revenue or the rents of Individuals.	Section 8.
V, 1795 ...	A Regulation prescribing Rules for the conduct of the Collector of the public Revenue in the Province of Benares.	Section 36.
VI, 1795 ...	A Regulation prescribing the process by which the Collector and the Tehseeldars are to realize the public Revenue payable from the Lands in the Province of Benares.	Section 46.
XLVI, 1795 ...	A Regulation for extending to the Province of Benares, Regulation XXXIII. 1793, entitled, "A Regulation for re-enacting, with modifications, the Rules passed on the 11th February and 21st October, 1791, for repairing the Embankments kept in repair at the public expense; and for encouraging the digging of Tanks or Reservoirs and Water-courses, and making Embankments.	The whole.

BOMBAY REGULATIONS—*(continued.)*

Number and year.	Title.	Extent of repeal.
XLIV, 1803 ...	A Regulation prescribing Rules for the Repair of Water-courses, Wells, and of other Works constructed for the Improvement of the Cultivation of the Lands, and kept in Repair at the public expense, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company, and for affording Encouragement to Individuals to construct such Works.	The whole.
VIII, 1805 ...	A Regulation for extending to the conquered Provinces situated within the Dooab and on the right Bank of the River Jumna, and to the Territory ceded to the Honourable the English East-India Company in Bundlecund by the Pieshwa, such of the Law and Regulations established for the internal Government of the Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company, as have not been already extended to those Territories, and for revising and amending certain Parts of the said Laws and Regulations.	Section 28.

BOMBAY REGULATION.

XVII, 1827 ...	A Regulation for the territories subordinate to Bombay, prescribing Rules for the assessment and realization of the Land Revenue, defining the relative Rights in the Land and its Produce, of the Government and the Subject, of the Superior Holder and the Tenant, vesting the Collector with Judicial Powers in Cases regarding Land, and its Rent and Produce, and declaring the Circumstances under which exemption from the payment of Land Revenue is to be enjoyed.	Section 13.

ACT No. XXVII. OF 1871.

CRIMINAL TRIBES' ACT, 1871.

Preamble.
1. Short title. Commencement. Local extent.

PART I.

CRIMINAL TRIBES.

2. Local Government to report what tribes should be declared criminal.
3. Report to contain certain particulars.
4. Occupation of wandering tribe to be stated; also proposed residence and means of livelihood.
5. Notification declaring tribe to be criminal.
6. Bar of jurisdiction of Courts in questions relating to notification.
7. Register of members of such tribes.
8. Procedure in making register.
9. Penalties for failing to appear, refusing or giving false information.
10. Charge of register. Reporting desirable alterations.
11. By whom alterations to be made. Notice to persons affected.
12. Complaints of entries in register.

13. Settlement of tribe in place prescribed by Local Government.
14. Removal to other place.
15. Arrangements to be made prior to settlement or removal.
16. Transfer of register of persons ordered to be removed.
17. Power to place tribe in reformatory settlement.
18. Power to make rules.
19. Penalties for breach of rules.
20. Arrest of registered person found beyond prescribed limits.
21. Duties of Village-Headmen, Village-Watchmen, &c.
22. Penalty for breach of such duties.
23. Indemnity for past registrations and detentions.

PART II.

EUNUCHS.

24. Registers of eunuchs and their property. 'Eunuch' defined.
25. Complaints of entries in register.
26. Penalty on registered eunuch appearing in female clothes; or dancing in public, or for hire.
27. Penalty on registered eunuch keeping boy under sixteen.
28. Maintenance and education of boys whose parents cannot be found.
29. Disabilities of registered eunuchs.
30. Power to require information as to registered eunuch's property. Penalty for refusing.
31. Rules for making and keeping up registers of eunuchs.

Vide act VII of 1876.

An Act for Registration of criminal tribes and eunuchs.

Preamble.

Whereas it is expedient to provide for the registration, surveillance and control of certain criminal tribes and eunuchs; It is hereby enacted as follows:—

Short title. Commencement.

I. This Act may be called "The Criminal Tribes' Act, 1871," and it shall come into force on the passing thereof.

Local extent.

This Section and Section 20 extend to the whole of British India: the rest of this Act extends only to the territories under the Governments of the Lieutenant-Governors of the North-Western Provinces and the Panjáb, respectively, and under the adminstration of the Chief Commissioner of Oudh.

Amend,

PART I.

CRIMINAL TRIBES.

Local Government to report what tribes should be declared criminal.

II. If the Local Government has reason to believe that any tribe, gang or class of persons is addicted to the systematic commission of non-bailable offences, it may report the case to the Governor-General in Council, and may request his permission to declare such tribe, gang or class to be a criminal tribe.

Report to contain certain particulars.

III. The report shall state the reasons why such tribe, gang or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and the circumstances of the offences in which the members of the tribe are supposed to have been concerned; and shall describe the manner in which it is proposed that such tribe, gang or class shall earn its living when the provisions hereinafter contained have been applied to it.

Occupation of wandering tribe to be stated;

IV. If such tribe, gang or class has no fixed place of residence, the report shall state whether such tribe, gang or class follows any lawful occupation, and whether such occupation is in the opinion of the Local Government the real occupation of such tribe, gang or class, or a pretence for the purpose of facilitating the commission of crimes, and shall set forth

the grounds on which such opinion is based; and the report shall also specify the place of residence in which such wandering tribe, gang or class is to be settled under the provisions hereinafter contained, and the arrangements which are proposed to be made for enabling it to earn its living therein.

Also proposed residence and means of livelihood.

V. If, upon the consideration of any such report, the Governor-General in Council is satisfied that the tribe, gang or class to which it relates ought to be declared criminal, and that the means by which it is proposed that such tribe, gang or class shall earn its living are adequate, he may authorize the Local Government to publish in the Local Gazette a notification declaring that such tribe, gang or class is a criminal tribe, and thereupon the provisions of this Act shall become applicable to such tribe, gang or class.

Notification declaring tribe to be criminal.

VI. No Court of Justice shall question the validity of any such notification on the ground that the provisons hereinbefore contained, or any of them, have not been complied with, or entertain in any form whatever the question whether they have been complied with, but every such notification shall be conclusive proof that the provisions of this Act are applicable to the tribe, gang or class specified therein.

Bar of jurisdiction of Courts in questions relating to notification.

VII. When the notification mentioned in Section 5 has been published, the Local Government may direct the Magistrate of any district in which such tribe, gang or class, or any part thereof, is at the time resident, to make a register of the members of such tribe, gang or class, or of any part thereof.

Register of members of such tribes.

The declaration of the Local Government that any such tribe, gang or class, or any part of it, is resident in any district, shall be conclusive proof of such residence.

VIII. Upon receiving such direction, the said Magistrate shall publish a notice in the place where the register is to be made, calling upon all the members of such tribe, gang or class, or of such portion thereof as is directed to be registered, to appear, at a time and place therein specified, before such persons as he appoints and to give those persons such information as may be necessary to enable them to make the register.

Procedure in making register.

IX. Any member of any such tribe, gang or class who, without lawful excuse, the burthen of proving which shall lie upon him,

Penalties for failing to appear, refusing to give or giving false information.

shall fail to appear according to such notice,

or who shall intentionally omit to furnish such information,

or who shall furnish, as true, information on the subject which he knows or has reason to believe to be false,

shall be deemed guilty of an offence under the first parts of Section 174 or 176 or 177 of the Indian Penal Code, respectively, as the case may be.

X. The register, when made, shall be kept by the District Superintendent of Police, who shall, from time to time, report to the said Magistrate any alterations which ought to be made therein, either by way of addition or erasure.

Charge of register.

Reporting desirable alterations.

By whom alterations to be made.

Notice to persons affected.

XI. No alteration shall be made in such register except by or by order of the said Magistrate, and he shall write his initials against every such alteration. Notice shall be given of any such intended alteration, and of the time when, and place where, it is to be made, to every person affected thereby.

Complaints of entries in register.

XII. Any person deeming himself aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may complain to the said Magistrate against such entry, and the Magistrate shall retain such person's name on the register, or enter it therein, or erase it therefrom, as he may see fit.

Every order for the erasure of any such person's name shall state the grounds on which such persons' name is erased.

The Commissioner shall have power to review any order of entry, retention or erasure, passed by the said Magistrate on any such complaint, either on appeal by the person registered or proposed to be registered, or otherwise.

Settlement of tribe in place prescribed by Local Government.

XIII. Any tribe, gang or class, which has been declared to be criminal, and which has no fixed place of residence, may be settled in a place of residence prescribed by the Local Government.

Removal to other place.

XIV. Any tribe, gang or class, which has been declared to be criminal, or any part thereof, may, by order of the Local Government, be removed to any other place of residence.

Arrangements to be made prior to settlement or removal.

XV. No tribe, gang or class, shall be settled or removed under the provisions of this Act until such arrangements as the Local Government shall, with the concurrence of the Governor-General in Council, consider suitable, have been made for enabling such tribe, gang or class, or such part thereof as is to be so settled or removed, to earn a living in the place in or to which it is to be settled or removed.

Transfer of register of persons ordered to be removed.

XVI. When the removal of any persons has been ordered under this Act, the register of such persons' names shall be transferred to the District Superintendent of Police of the district to which such persons are removed, and the Magistrate of the said district and the Commissioner of the division in which it is situated, shall thereupon be empowered to exercise respectively the powers provided in Sections 11 and 12.

Power to place tribe in reformatory settlement.

XVII. The Local Government may, with the sanction of the Governor-General in Council, place any tribe, gang or class, which has been declared to be criminal, or any part thereof, in a reformatory settlement.

Power to make rules.

XVIII. The Local Government may, with the previous consent of the Governor-General in Council, make rules to prescribe—

(1) the form in which the register shall be made by the said Magistrate;

(2) the mode in which the said Magistrate shall publish the notice prescribed in Section 8 and the means by which the persons whom it concerns, and the headmen, village-watchmen and landowners or

occupiers of the village, in which such persons reside, shall be informed of its publication;

(3) the mode in which the notice prescribed in Section 11 shall be given;

(4) the limits within which persons whose names are on the register shall reside;

(5) conditions as to holding passes, under which such persons may be permitted to leave the said limits;

(6) conditions to be inserted in any such pass as to

(a) the places where the holder of the pass may go or reside;

(b) the officers before whom, from time to time, he shall be bound to present himself;

(c) and the time during which he may absent himself;

(7) conditions as to answering at roll-call or otherwise, in order to satisfy the said Magistrate or persons authorized by him, that the persons whose names are on the register are actually present at given times within the said limits;

(8) the inspection of the residences and villages of any such tribe, gang or class, and the prevention or removal of contrivances for enabling the residents therein to conceal stolen property, or to leave their place of residence without leave;

(9) the terms upon which registered persons may be discharged from the operation of this Act;

(10) the mode in which criminal tribes shall be settled and removed;

(11) the control and supervision of reformatory settlements;

(12) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour after defraying the whole or such part of the expenses of their supervision and control as to the Local Government shall seem fit;

(13) the discipline to which persons endeavouring to escape from any such settlement, or otherwise offending against the rules for the time being in force, shall be submitted; the periodical visitation of such settlement, and the removal from it of such persons as it shall seem expedient to remove;

(14) and generally to carry out the purposes of this Act.

Penalties for breach of rules.

XIX. Any person violating any of the rules made under Section 18 shall be punished with rigorous imprisonment for a term which may extend to six months, or with fine, or with whipping, or with all or any two of those punishments; and, on any second conviction for a breach of any of the said rules, with rigorous imprisonment which may extend to one year, and with fine, or with whipping to be inflicted in the manner prescribed by any law in force for the time being in relation to whipping, or with all or any two of those punishments.

Arrest of registered person found beyond prescribed limits.

XX. Any person registered under the provisions of this Act, who is found in any part of British India, beyond the limits so prescribed for his residence, without such pass as may be required by the said rules, or in a place or at a time not permitted by the conditions of his pass,

or who escapes from a reformatory settlement,

may be arrested without warrant by any police officer or village-watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided, or to the reformatory settlement from which he has escaped (as the case may be), there to be dealt with according to the rules under this Act for the time being in force.

The rules for the time being in force for the transmission of prisoners shall apply to all persons removed under this Section: Provided that an order from the Local Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of Village-Headmen, Village-Watchmen, &c.

XXI. It shall be the duty of every Village-Headman and Village-Watchman in a village in which any persons belonging to a tribe, class or gang which has been declared criminal reside, and of every owner or occupier of land on which any such persons reside, to give the earliest information in his power at the nearest Police station of

(1) the failure of any such person to appear and give information, as directed in Section 8;

(2) the departure of any such person from such village or from such land (as the case may be).

And it shall be the duty of every Village-Headman and Village-Watchman in a village, and of every owner or occupier of land, to give the earliest information in his power at the nearest Police station of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any such tribe, class or gang.

Penalty for breach of such duties.

XXII. Any Village-Headman, Village-Watchman, owner or occupier of land, who shall fail to comply with the requirements of Section 21, shall be deemed to have committed an offence under the first part of Section 176 of the Indian Penal Code.

Indemnity for past registrations and detentions.

XXIII. All Magistrates and other persons are hereby indemnified for anything heretofore done under the Circular Order 18 of 1856 of the Judicial Commissioner of the Panjáb, or under any orders of the Local Governments of the North-Western Provinces or Oudh, relating to the registration or detention of tribes regarded by such Local Governments as criminal tribes; and no suit or other proceeding shall be maintained against any such Magistrate or other person in respect of anything so done.

PART II.

EUNUCHS.

Registers of eunuchs and their property.

XXIV. The Local Government shall cause the following registers to be made and kept up by such officer as, from time to time, it appoints in this behalf:—

(*a*) a register of the names and residences of all eunuchs residing in any town or place to which the Local Government specially extends this Part of this Act, who are reasonably suspected of kidnapping or castrating children, or of committing offences under Section 377

of the Indian Penal Code, or of abetting the commission of any of the said offences; and

(*b*) a register of the property of such of the said eunuchs as, under the provisions hereinafter contained, are required to furnish information as to their property.

'Eunuch,' defined.

The term 'eunuch' shall, for the purposes of this Act, be deemed to include all persons of the male sex who admit themselves, or on medical inspection clearly appear, to be impotent.

Complaints of entries in register.

XXV. Any person deeming himself aggrieved by any entry made or proposed to be made in such register, either when the register is first made or subsequently, may complain to the said officer, who shall enter such person's name, or erase it, or retain it, as he sees fit.

Every order for erasure of such person's name shall state the grounds on which such person's name is erased.

The Commissioner shall have power to review any order passed by such officer on such complaint, either on appeal by the complainant or otherwise.

Penalty on registered eunuch appearing in female clothes;

XXVI. Any eunuch so registered who appears dressed or ornamented like a woman, in a public street or place, or in any other place, with the intention of being seen from a public street or place,

or dancing in public, or for hire.

or who dances or plays music, or takes part in any public exhibition, in a public street or place or for hire in a private house,

may be arrested without warrant, and shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Penalty on registered eunuch keeping boy under sixteen.

XXVII. Any eunuch so registered who has in his charge, or keeps in the house in which he resides or under his control, any boy who has not completed the age of sixteen years shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Maintenance and education of boys whose parents cannot be found.

XXVIII. The Magistrate may direct that any such boy shall be returned to his parents or guardians, if they can be discovered. If they cannot be discovered, the Magistrate may make such arrangements as he thinks necessary for the maintenance and education of such boy, and may direct that the whole or any part of a fine inflicted under Section 27 may be employed in defraying the cost of such arrangements.

The Local Government may direct out of what local or municipal fund so much of the cost of such arrangements as is not met by the fine imposed, shall be defrayed.

Disabilities of registered eunuchs.

XXIX. No eunuch so registered shall be capable—

(*a*) of being or acting as guardian to any minor,

(*b*) of making a gift,

(*c*) of making a will, or

(*d*) of adopting a son.

Power to require information as to registered eunuch's property.

XXX. Any officer authorized by the Local Government in this behalf may, from time to time, require any eunuch so registered to furnish information as to all property, whether movable or immovable, of

or to which he is possessed or entitled, or which is held in trust for him.

Penalty for refusing such information.

Any such eunuch intentionally omitting to furnish such information or furnishing, as true, information on the subject which he knows, or has reason to believe to be false, shall be deemed to have committed an offence under Section 176 or 177 of the Indian Penal Code, as the case may be.

Rules for making and keeping up registers of eunuchs.

XXXI. The Local Government may, with the previous sanction of the Governor-General in Council, make rules for the making and keeping up and charge of registers made under this Part of the Act.

Act No. XXVIII. of 1871.

1. Addition to Act XXI. 1869. Liability of consignee or agent in case of European arriving in charge of animals becoming vagrants. "Consignee." "Agent."
2. Commencement.
3. Construction.

An Act to amend the European Vagrancy Act, 1869.

Preamble.

Whereas it is expedient to amend the European Vagrancy Act, No. XXI. of 1869; It is hereby enacted as follows:—

I. After Section 31, the following section shall be read:—

Addition to Act XXI., 1869.

Liability of consignee or agent in case of Europeans arriving in charge of animals becoming vagrants.

"XXXIA. When any person of European extraction lands in India, being or having been during his passage to India in charge of, or in attendance upon, any animal, and becomes chargeable to the State as a vagrant within one year after his arrival in India, then

the consignee of such animal,

or the agents in India for the sale of such animal,

or if such consignee or agent cannot be found,

the agent to whom the ship in which such animal arrived in India was consigned,

shall be liable to pay to the Government the cost of such person's removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Any such consignee or agent shall be entitled to charge the consignor or principal for any payment to the Government under this section.

'Consignee.'

For the purposes of this section 'consignee' includes any person who undertakes to dispose of such animal for the benefit of the consignor.

'Agent.'

'Agent' includes any person who undertakes the agency of such ship, though it may not have been consigned to him."

Commencement.

II. This Act shall come into force, as against any agent to whom any such ship may have been consigned, on the first day of January, 1872;

as against all other persons, on the passing thereof.

Construction.

III. This Act shall be read with, and taken as part of, the European Vagrancy Act, 1869.

ACT No. XXIX. OF 1871.

An Act for repealing certain Regulations of the Bengal Code which have ceased to be in force or have become unnecessary.

Preamble.

Whereas it is expedient that the Regulations mentioned in the schedule annexed to this Act, which have ceased to be in force otherwise than by express repeal, or have by change of circumstances become unnecessary, or which merely repeal previous Regulations or parts thereof, should be expressly rescinded; It is hereby enacted as follows :—

Repeal of enactments.

I. The unrepealed portions of the Regulations specified in the schedule hereto annexed are repealed:

Provided that such repeal shall not affect any Regulation or Act in which the repealed enactment has been applied, incorporated or referred to;

And this Act shall not affect the validity or invalidity of anything already done or suffered, or any indemnity already granted, or any right, title or interest already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing;

Nor shall this Act affect any principle or rule of law, or established jurisdiction, practice or procedure, or existing usage, custom, privilege or exemption, notwithstanding that the same may have been in any manner affirmed, recognized or derived by, in, or from, any enactment hereby repealed;

Nor shall this Act operate to revive any jurisdiction, office usage, custom, privilege or exemption not now existing or in force.

SCHEDULE.

No. and year of Regulation.	Title.
Regulation VI of 1793 ...	A Regulation for extending and defining the powers and duties of the Court of Sudder Dewanny Adawlut, and prescribing Rules for receiving and deciding upon Appeals from the decisions of the Provincial Courts of Appeal.
Regulation XIII of 1793 ...	A Regulation for the appointment of the ministerial Officers of the Civil and Criminal Courts of Judicature, and prescribing their respective Duties.
Regulation XX of 1793 ...	A Regulation for empowering the Zillah and City Courts, the Provincial Courts of Appeal, and the Sudder Dewanny Adawlut and the Nizamut Adawlut, to propose Regulations regarding matters coming within their cognizance.
Regulation XXII of 1793 ...	A Regulation for re-enacting, with alterations and amendments, the Regulations passed by the Governor-General in Council on the 7th December, 1792, for the establishment of an efficient Police throughout the country.

SCHEDULE.

No. and year of Regulation.	Title.
Regulation XXVI of 1793 ...	A Regulation for extending the term of minority of Mahomedan and Hindoo Proprietors of Land paying Revenue to Government to the expiration of the eighteenth year.
Regulation XXVII of 1793 ...	A Regulation for re-enacting, with alterations and modifications, the Rules passed by the Governor-General in Council on the 11th June and 28th July, 1790, and subsequent dates, for the resumption and abolition of the Sayer, or internal Duties and Taxes, throughout Bengal, Behar, and Orissa, and for adjusting and paying the deductions and compensations directed to be granted to the Proprietors and Farmers of Estates paying revenue to Government, and the Holders of Property exempt from the payment of Revenue to Government, on account of the Duties and Taxes abolished.
Regulation XLIII of 1793 ...	A Regulation for re-enacting, with modifications, the Rules passed on the 25th February, 1793, for granting lands to invalided Native Officers and Private Soldiers.
Regulation XLIV of 1793 ...	A Regulation for prohibiting the fixing the jumma of dependent Talooks, or granting Leases or Pottahs for a Term exceeding Ten Years; and, in cases of Lands being disposed of at public sale for the discharge of arrears of the public Revenue, for rendering null and void all Engagements (with certain exceptions) subsisting between the defaulting Proprietor and his dependent Talookdars, Under-farmers, and Ryots for the payment of rent or Revenue on account of the lands so sold.
Regulation X of 1795 ...	A Regulation for empowering the Sudder Dewanny Adawlut to receive and decide upon Appeals from Decisions of the Provincial Court of Appeal established in the Province of Benares; and for defining the jurisdiction, powers, and authorities of the Sudder Dewanny Adawlut in that Province.
Regulation XII of 1795 ...	A Regulation for extending to the Province of Benares Regulation XIII., 1793, entitled "A Regulation for the appointment of the ministerial Officers of the Civil and Criminal Courts of Judicature, and prescribing their respective duties."
Regulation XLIII of 1795 ...	A Regulation for enacting into a Regulation the Rules passed on the 18th February, 1789, and 24th December, 1790, for granting Lands to discharged Native Invalid Officers, and Private Soldiers, in the Province of Benares.
Regulation L of 1795 ...	A Regulation for prohibiting Talookdars, Zemindars, or other Proprietors of land paying Revenue, in the Province of Benares, from fixing the Jumma of dependent tenants (whether Zemindars or Putteedars), or granting Leases or Pottahs for a Term exceeding ten years; and in cases of lands being disposed of at public Sale for the Discharge of Arrears of the public Revenue, for rendering null and void all engage-

SCHEDULE.

No. and year of Regulation.	Title.
	ments (with certain exceptions) subsisting between the defaulting Proprietor and his dependent Zemindars, Puttedars, Under-farmers, and Ryots, for the payment of Rent or Revenue on account of the lands so sold.
Regulation III of 1796 ...	A Regulation for excluding from the jurisdiction of the Court of Wards, certain descriptions of Landed Estates belonging to disqualified Landholders, and for declaring the Rules in Section 5, Regulation XLIV., 1793, to extend to the cancelling wholly the Leases of those Under-farmers, a part only of the Land included in whose Leases may be sold for Arrears of Revenue.
Regulation IV of 1796 ...	A Regulation to provide for the occasional absence of the Zillah and City Judges and Magistrates, in the Provinces of Bengal, Behar, Orissa, and Benares, from their respective Stations; and prescribing the duties to be performed by the Registars of the Courts and the Assistants, on such occasions, as well as in the discharge of their official Functions.
Regulation II of 1797 ...	A Regulation for defining more specifically the responsibility of the Landholders and Farmers of land in the Province of Benares, under the charge of the Police vested in them, conformably to their engagements by Regulation XVII., 1795.
Regulation VI of 1797 ...	A Regulation for abolishing Regulation XXIII., 1793, entitled, "A Regulation for raising an Annual Fund for defraying the expense of the Police Establishments entertained under Regulation XXII. 1793;" and for establishing new Fees on the institution and trial of Suits, in lieu of those prescribed by Regulation XXXVIII., 1795; and for levying a Stamp Duty on certain Law and other papers and documents, and a Percentage on the fees of the authorized Pleaders in the Courts of Civil Judicature, in the Provinces of Bengal, Behar, Orissa and Benares.
Regulation IX of 1799 ...	A Regulation for further providing against resistance to the processes of the Civil Courts in the Cities of Dacca, Moorshedabad, and Patna, as well as against resistance to the processes of the Civil Courts in general.
Regulation II of 1801 ...	A Regulation for the more speedy and effectual Administration of Justice in the Courts of Sudder Dewanny and Nizamut Adawlut.
Regulation VIII of 1803 ...	A Regulation for extending the jurisdiction of the Nizamut Adawlut to the Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company.
Regulation XII of 1803 ...	A Regulation for the appointment of the ministerial Officers of the Civil and Criminal Courts of Judicature in the Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company.

SCHEDULE.

No. and year of Regulation.	Title.
Regulation XXVI of 1803 ...	A Regulation prescribing Rules for the sale and division of lands paying Revenue to Government, in th Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company.
Regulation XXXV of 1803...	A Regulation for the establishment of an efficient system of Police in the Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company.
Regulation XLVII of 1803 ...	A Regulation for prohibiting the fixing the Jumma of dependent Talook, or granting Leases or Pottahs for a term extending beyond the term of the Lease of the Lands held by the Grantor of the Pottah; or in cases in which the Grantor shall hold his Lands on a fixed Jumma in perpetuity, for prohibiting the granting of Leases or Pottahs for a Term exceeding Ten Years; and, in cases of Lands being disposed of at public sale for the discharge of Arrears of public Revenue, for rendering null and void all engagements (with certain exceptions) subsisting between the defaulting Proprietor and his dependent Talookdars, Farmers, and Ryots, for the payment of Rent or Revenue on account of the Lands so sold, in the Provinces ceded by the Nawaub Vizier to the Honourable the English East-India Company.
Regulation I of 1804 ...	A Regulation for the better management of the Invalid Jagheerdar Establishments, and of the Invalid Pension Establishments.
Regulation XVII of 1805 ...	A Regulation for modifying the Rules contained in Regulation VIII., 1793, respecting the management of joint undivided Estates.
Regulation X of 1806 ...	A Regulation for extending to the Judicial Department such parts of Regulation VIII., 1806, as are applicable to charges or information against the European Public Officers employed in that Department, and for making further Provision in such cases.
Regulation XXI of 1806 ...	A Regulation for making certain alterations in the Office of Tehseeldar in the Province of Benares, and in the Ceded and Conquered Provinces, on the death, resignation, or removal of any persons by whom those Offices are at present held.
Regulation XIV of 1807 ...	A Regulation for amending the system of Police established in the Province of Benares and in the Ceded and Conquered Provinces within the Divisions of Bareilly and Benares; also for extending to those Provinces the provisions contained in Regulation XII., 1807, for the appointment of Ameens of Police.
Regulation V of 1808 ...	A Regulation to explain and declare the intent and meaning of certain Clauses in the existing Regulations respecting the settlement of the Land Revenue in the Ceded Provinces.

SCHEDULE.

No. and year of Regulation.	Title.
Regulation VII of 1808 ...	A Regulation for completing the Registers of Lands held free of Assessment in the Ceded and Conquered Provinces in the Doab, and on the left bank of the River Jumna, and in the territory ceded by His Highness the Peishwah to the British Government in Bundlecund.
Regulation XI of 1808 ...	A Regulation for the adjustment of the rent payable by the Heirs of invalid Jaggeerdars.
Regulation III of 1809 ...	A Regulation for the support of the Police in the Cantonments and Military Bazars; for defining the powers of the Civil and Military Officers in the Performance of that Duty; and for fixing the local limits of the said Cantonments and Bazars.
Regulation XIII of 1811 ...	A Regulation for the more convenient and efficient discharge of the duties of the Board of Revenue.
Regulation IX of 1812 ...	A Regulation for modifying some of the Rules before enacted regarding the settlement of the Ceded Provinces.
Regulation X of 1812 ...	A Regulation for modifying some of the Rules before enacted regarding the Settlement of the Conquered Provinces lying on the right and left banks of the River Jumna, of the territory ceded by his Highness the Peishwah in Bundlecund, and of the District of Cuttack.
Regulation XIV of 1812 ...	A Regulation for modifying, in certain cases, the Rule contained in Section 2, Regulation V., 1812, regarding the grant of Leases by the Proprietors of Lands in the Ceded and Conquered Provinces to their Tenants.
Regulation II of 1813 ...	A Regulation for preventing Native Officers from making use of public money intrusted to their care.
Regulation XXI of 1814 ...	A Regulation for preventing the Zillah and City Judges and Collectors of the public Revenue from employing their Native Creditors on their respective Establishments.
Regulation I of 1815 ...	A Regulation for securing the right of the British Government to assess Land held under Mocurreree or Istumrar Grants of any preceding Government, on the decease of the holders thereof.
Regulation XIII of 1817 ...	A Regulation for establishing the office of Canoongoe in the District of Midnapore, and in the Mehauls subject to the authority of the Collector of Hidgellee, and for extending to the said District and Mehauls the operation of Regulation XII., 1817.
Regulation XVI of 1817 ...	A Regulation for imposing a duty on Foreign Opium imported by Sea into any port or place within the limits of the territories immediately dependent on the Presidency of Fort William.

SCHEDULE.

No. and year of Regulation.	Title.
Regulation XVIII of 1817 ...	A Regulation to modify the Rules in force which prescribe an Oath of Office to be taken by certain Native Officers; and to explain and amend other provisions relative to the Native Ministerial Officers and Law Officers of the Civil and Criminal Courts.
Regulation XXIV of 1817 ...	A Regulation for modifying the constitution of the Commission established in the Provinces of Behar and Benares, and in the Districts of Ramghur, Bhaugulpore, and Purneah; for extending the authority of the said Commission to the Districts of Dinagepore and and Rungpore: and for better defining the powers to be exercised in certain cases by a single Member of the Board of Revenue, or Commission vested with the authority of that Board.
Regulation I of 1818 ...	A Regulation for establishing the office of Canoongoe in the Districts of the 24-Pergunnahs, Nuddea, Jessore, Dacca, Jelalpore, and Backergunge, and for extending to the said Districts the operation of Regulation XII., 1817.
Regulation III of 1820 ...	A Regulation for rescinding some of the provisions of Regulation XI., 1806, and for preventing the practice of pressing Coolies or Begarees.
Regulation II of 1822 ...	A Regulation for modifying certain provisions in the existing Regulation, relative to the Officers employed in the collection of the Government Customs and Town Duties.
Regulation XI of 1824 ...	A Regulation for empowering the Zillah and City Judges and Magistrates to depute their Registers or Assistants, for the purpose of making local investigations in certain Cases.
Regulation VIII of 1825 ...	A Regulation to make further provision for the employment of Native Officers in the Judicial Department, and to provide for the punishment of false and malicious charges against the European Officers of Government.
Regulation IX of 1826 ...	A Regulation for transferring the superintendence of the Custom-House at Patna from the Board of Revenue in the Central Provinces to the Board of Customs at the Presidency; and for vesting the latter Board with the control of the other Customs in the Central and Western Provinces, and in the Province of Cuttack concurrently with the Central and Western Boards of Revenue and the Commissioner of Cuttack respectively.
Regulation I of 1827 ...	A Regulation for rescinding Regulation I., 1796, and providing a special form of Trial for the Mountaineers of Bhaugulpore, also for investing the Magistrate of Bhaugulpore with summary powers for the adjustment of certain Civil Claims.
Regulation IX of 1828 ...	A Regulation for amending the Rules in Force in regard to Special or Second Appeals, instituted *in Formâ Pauperis.*

SCHEDULE.

No. and year of Regulation.	Title.
Regulation III of 1829 ...	A Regulation for abolishing certain official designations amongst the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, and of the Provincial Courts; for amending the Rules at present in force, which require the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, or their Public Officers, to take the prescribed Oaths of Office before the Governor-General in Council; for providing for the decision of Civil Suits and Appeals in the Provincial Courts, in certain cases; for amending Regulation VII., 1825, and for discontinuing the offices of Hindoo and Mahomedan Law Officer in the Provincial Courts.
Regulation II of 1830 ...	A Regulation for rescinding and re-enacting, with modifications, the provisions contained in Regulation VII., 1818, for regulating the trade of Foreign Nations with the Ports and Settlements of the British Nation in the East Indies.

ACT No. XXX. OF 1871.

THE PUNJAB CANAL AND DRAINAGE ACT, 1871.

Preamble.

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3. Interpretation.
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79. Power to make Rules.
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An Act to regulate Irrigation, Navigation and Drainage in the Punjab.

Preamble.

Whereas all lakes, rivers, streams and other natural drainage-channels and collections of water in the Punjab are the property of the Government; and whereas it is expedient to amend the law relating to irrigation, navigation and drainage; It is hereby enacted as follows;—

PART I.

PRELIMINARY.

Short title. Local extent. Commencement.

I. This Act may be called "The Punjab Canal and Drainage Act, 1871." It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab; And it shall come into force on the passing thereof.

Repeal of Acts.

II. The Acts mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of the said schedule.

Interpretation-clause.

III. In this Act, unless there be something repugnant in the context—

'Canal.'

(1.) 'Canal' includes—

(*a*) all canals, channels and reservoirs constructed, maintained or controlled by Government for the storage or supply of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations or other produce, occupied by or belonging to Government, upon such lands;

(*d*) all water-courses as defined in the second clause of this section;

(*e*) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II. of this Act;

'Water-course.'

(2) 'Water-course' means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government; and all subsidiary works belonging to any such channel;

'Drainage-work.'

(3) 'Drainage-work' includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part V of this Act; but does not include works for the removal of sewage from towns;

'Vessel.'

(4) 'Vessel' includes boats, rafts, timber and other floating bodies;

'Commissioner.'

(5) 'Commissioner' means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

'Deputy Commissioner.'

(6) 'Deputy Commissioner' means the head Revenue Officer of a District, and includes any officer appointed under this Act to exercise all or any of the powers of a Deputy Commissioner;

'Canal Officer.'

(7) 'Canal Officer' means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

A 'Superintending Canal Officer' means an officer exercising general control over a canal or portion of a canal;

A 'Divisional Canal Officer' means an officer exercising control over a Division of a canal;

A 'Sub-divisional Canal Officer' means an officer exercising control over a sub-division of a canal.

All such officers shall be respectively subject to the orders of such officers as the Local Government shall, from time to time, direct.

'District.'

(8.) 'District' means a district as fixed for revenue purposes.

Power to appoint officers.

IV. The Local Government may, from time to time, declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

PART II.

Procedure for applying a Water-supply to Public Purposes, and awarding Compensation for Loss arising thereon.

Notification to issue when water-supply is to be applied for public purposes.

V. Whenever it appears expedient to the Local Government that the water of any river, stream, lake, natural drainage-channel or other collection of water should be applied by the Government for the purpose

of any existing or projected canal or drainage-work, such Government may, by notification in the official Gazette, declare that the said water will be so applied by the Government after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Canal officer.

VI. At any time after the day so named, any Canal officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application of the said water.

Notice as to claims for compensation.

VII. As soon as is practicable after the publication of such notification the Deputy Commissioner shall cause public notice to be given at convenient places, stating that the Government intends to apply the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in Section 8 may be made before him.

Matters in respect of which compensation may be allowed.

VIII. Compensation may be allowed in respect of any of the following matters:—

(1.) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the passing of this Act;

(2.) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, natural or artificial, in use at the passing of this Act;

(3.) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation for the five years next before the passing of this Act;

(4.) Injury done in respect of any water-course or the use of any water to which any person is entitled under the law relating to the acquisition of ownership by possession.

Losses for which compensation shall not be allowed.

But no compensation shall be given for any loss caused by—

(a) stoppage or diminution of percolation, or floods;
(b) alteration of climate or soil;
(c) diminution of natural products;
(d) stoppage of navigation, of the means of drifting timber, of watering cattle, or stoppage of fisheries;
(e) displacement of labour, or deprivation of any accessory advantages or opportunity of profit other than those referred to in the first three clauses of this section.

None of the advantages referred to in the above clauses *(a)*, *(b)*, *(c)*, *(d)* and *(e)* shall be deemed to be an easement.

In determining the amount of such compensation, regard shall be had to the diminution in the market-value of the property in question, occasioned by the application in respect of which compensation is demanded; and where the market-value of such property is not ascertainable, the amount of compensation to be awarded shall be reckoned at twelve times the amount of the diminution of the annual nett profits of such property, occasioned by such application.

No right to any such supply of water as is referred to in Clause 1, 2 or 3 of this section, in respect of a work or channel not in

use at the passing of this Act, shall hereafter be acquired as against the Government except by grant or prescription.

Limitation of claims.

IX. No claim for compensation for any such stoppage or diminution shall be entertained, unless it be made within one year next after such stoppage or diminution has commenced.

Enquiry into claims and amount of compensation.

X. The Deputy Commissioner shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given; and Sections 9 to 12, 14, and 15, 18 to 23, 26 to 40, 41, 57, 58 and 59 of Act X. of 1870, shall apply to such enquiries:

Provided that, instead of the last clause of the said Section 26, the following shall be read: "The provisions of this section and of Section 8 of the Punjab Canal and Drainage Act, 1871, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

Tenants may claim abatement of rent on interruption of water-supply.

XI. Every tenant holding under an unexpired lease, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under Section 8, takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Tenants' rents may be enhanced on restoration of water-supply.

XII. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of any such tenant of such land may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood before the abatement.

Compensation when due.

XIII. All sums of money payable for compensation under this part shall be held to be due three months after the claim for such compensation is made in respect of such stoppage or diminution; and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months.

Interest to be allowed.

PART III.

Surveys Construction and Maintenance of Works, Imposition and Recovery of Charges.

Surveys.

Power to enter adjacent lands and survey, &c.

XIV. Any Canal officer and any person acting under the general or special order of a Canal officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon;

and dig and bore into the sub-soil;

and make and set up suitable land-marks, level-marks and water-gauges;

and do all other acts necessary for the proper prosecution of any

enquiry relating to any existing or projected canal under the charge of the said Canal officer;

Power to clear land.

and, where otherwise such enquiry cannot be completed, may cut down and clear away any part of any standing crop, fence or jungle;

Power to inspect and regulate water-supply.

and, may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of any such canal:

Notice of intended entry into houses.

Provided that, if such Canal officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he must previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by such entry.

In every case of entry under this section, such Canal officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Deputy Commissioner, and such decision shall be final.

Entry on Lands in Case of Accidents.

Power to enter for repairs and to prevent accidents.

XV. In case of any accident happening or being apprehended to a canal, any Divisional Canal officer and any person acting under his general or special orders may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

Compensation for injury.

In every such case, such Canal officer or person shall tender compensation to the proprietors or occupiers of the said lands for all injury done to the same. If such tender is not accepted, the Canal officer shall refer the matter to the Deputy Commissioner, who shall proceed to award compensation for the land as though the Local Government had directed its occupation under Section 43 of Act X. of 1870.

Construction and Maintenance of Works.

Application by person desiring to use canal water.

XVI. Any person or persons desiring to use the water of any canal, may make an application in writing to the Divisional or Sub-Divisional Canal officer of the Division or Sub-Division of the Canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicant.

Contents of application.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicant is willing to pay for the same, or whether he engages to pay the actual cost as settled by the Divisional Canal officer, and how the payment is to be made.

When the assent of the Superintending Canal officer is given to such application, all the persons who have signed it shall be jointly and severally liable for the cost of such works to the extent mentioned therein.

Liability of applicants for cost of works.

Any amount becoming due under the terms of such application, which is not paid to the Divisional Canal officer, or the person authorized by him to receive the same, on or before the date on which the payment becomes due, shall, on the demand of such officer, be recoverable by the Deputy Commissioner as if it were an arrear of land-revenue.

Recovery of amount due.

XVII. There shall be provided at the cost of Government suitable means of crossing canals, constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

Government to provide means of crossing canals.

On an application in writing, signed by not less than five persons who are owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Deputy Commissioner shall cause enquiry to be made into the circumstances of the case, and if he thinks that the allegation is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

XVIII. The Divisional Canal officer may issue an order to the person or persons using any water-course to construct suitable bridges, culverts, or other works for the passage of the water of such water-course across any public road, canal or drainage-channel, which was in use before the said water-course was made, or to repair any such works.

Persons using water-course to construct works for passing water across roads, &c.

Such order shall specify a reasonable period within which such construction or repairs shall be completed; and if, after the receipt of such order, the person to whom it is addressed does not, within the said period, construct or repair such works to the satisfaction of the said Canal officer, such officer may, with the previous approval of the Superintending Canal officer, himself construct or repair the same; and if the said person shall not, when required to do so, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal officer, be recoverable from the said person by the Deputy Commissioner, as if it were an arrear of land-revenue.

If they fail, Canal officer may construct and recover cost.

XIX. If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-Divisional Canal officer, on receiving an application from any person injured by such neglect or refusal, shall give a fortnight's notice to all the parties concerned that he is about to investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit. Such order shall be appealable to the Commissioner, whose order shall be final.

Adjustment of claims between persons jointly using water-course.

Recovery of amount adjudged to be due.

If such order direct the payment of any sum to be made within a specified period, such sum may, if not paid within such period, be recovered by the Deputy Commissioner from the person directed to pay the same, as if it were an arrear of land-revenue.

Supply of water through intervening water-course.

XX. Whenever application is made to a Divisional Canal officer for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water-course, he shall give notice to the person or persons responsible for the maintenance of such water-course, to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed ; and, after making enquiry on such day, the Divisional Canal officer shall determine whether and on what condition the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal officer shall determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application for construction of new water-course.

XXI. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal officer, stating—

(1) that he has been unable to come to terms with the owners of the land through which such water-course will pass ;

(2) that he desires the said Canal officer, in his behalf and at his cost, to do all things necessary for acquiring a right to so much of the said land as will be necessary for such water-course ;

(3) that he is able to defray all costs involved in acquiring such land and constructing such water-course.

Procedure of Canal officer thereupon.

XXII. If the Divisional Canal officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he may consider likely to become due under Section 28 ;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall make out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Deputy Commissioner of every district in which any part of such land is situate.

Application for transfer of existing water-course.

XXIII. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal officer, stating—

(1) that he has been unable to come to terms with the owner of such water-course;

(2) that he desires the said Canal officer, in his behalf and at his cost to do all things necessary for the transfer to him of such water-course;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal officer considers—

(*a*) that the said transfer is expedient,

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of Section 28 in respect of such transfer;

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Deputy Commissioner of every district through which such water-course passes.

Objections to construction or transfer applied for.

XXIV. Within thirty days from the publication of a notice under either of the two next preceding sections, any person interested in the land or water-course to which the notice refers may apply to the Deputy Commissioner by petition, stating his objection to the construction or transfer for which application has been made. The Deputy Commissioner may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal officer of the place and time at which such inquiry will be held.

The Deputy Commissioner shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant may be placed in occupation.

XXV. If no such objection is made, or if the Deputy Commissioner overrules the objections made, he shall give notice to the Divisional Canal officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

Procedure when objection is held valid.

XXVI. If the Deputy Commissioner considers any objection taken as aforesaid to be valid, he shall inform the Divisional Canal officer accordingly; and, if such officer sees fit, he may, in the case of an application under Section 21, alter the boundaries of the land so marked out, and may give fresh notice under Section 22; and the procedure hereinbefore provided shall be applicable to such notice, and the Deputy Commissioner shall thereupon proceed as before provided.

Procedure when Canal officer disagrees with Deputy Commissioner.

XXVII. If the Canal officer disagrees with the Deputy Commissioner, the matter shall be referred for decision to the Commissioner. Such decision shall be final, and the Deputy Commissioner, if he is so directed by such decision, shall forthwith cause the said applicant to be placed in occupation of land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

XXVIII. No such applicant shall be placed in occupation of such land or water-course, until he has paid to the person named by the Deputy Commissioner such amount as the Deputy Commissioner shall determine to be due as compensation for the land or water-course so occupied or transferred, and for any damage occasioned by the marking out and occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Deputy Commissioner shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so wish, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Deputy Commissioner as if it were an arrear of land-revenue; and shall, when recovered, be paid by him to the person entitled to receive the same.

Conditions binding on applicant placed in occupation.

XXIX. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :—

First.—All works necessary for the passage, across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal officer.

Second.—Land occupied for a water-course under the provisions of Section 22 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Divisional Canal officer within one year after occupation of the land is given to the applicant.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge,

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as shall be determined by the Deputy Commissioner when occupation is given.

Fifth.—If the right to occupy the land shall cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Deputy Commissioner shall determine.

Sixth.—The Deputy Commissioner may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Deputy Commissioner may recover the

amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules or conditions prescribed by this section is not complied with, or

If any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course, shall cease absolutely.

Same procedure to be also applicable to occupation for extensions and alterations.

XXX. The procedure hereinbefore provided for the occupation of land for the construction of a water-course, shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Conditions of the Supply of Water.

In absence of written contract, water-supply to be subject to rules.

XXXI. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be issued by the Local Government in respect thereof.

Conditions, for contracts and rules, as to power to stop water-supply;

XXXII. Such contracts and such rules shall be consistent with the following conditions:—

(*a.*) The Divisional Canal officer may not stop the supply of water to any water-course, or to any person, except in the following cases—

(1)—whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government:

(2)—whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom:

Claims to compensation in case of failure or stoppage of supply;

(*b*)—No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal officer considers necessary; but the person who suffers such loss may claim such remission of the ordinary charges payable for the use of the water as shall be authorized by the Local Government:

Claims on account of interruption from other causes;

(*c.*) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Deputy Commissioner for any loss arising from such interruption, and the Deputy Commissioner may award reasonable compensation;

Duration of supply.

(*d.*) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to endure only until that crop shall come to maturity, and to apply only to that crop; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to be for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year;

Sale or sub-letting of canal-water.

(*e.*) Unless with the permission of the Superintending Canal officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use; but all contracts made between Government and the owner or occupier of any land or other property, as to the supply of canal water to such land or property, shall be transferable with such land or property, and shall be presumed to have been so transferred whenever a transfer of such land or property takes place;

Transfer, with land, of contracts for water.

Right acquired by user.

(*f.*) No prescriptive right to the use of the water of a canal can be acquired by user or lapse of time, nor shall Government be bound to supply any person with water, except in accordance with the terms of a specific contract.

Liability to Charges.

Liability when person using unauthorizedly cannot be identified.

XXXIII. If water supplied through a watercourse be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person on whose land such water has flowed, if such land has derived benefit therefrom,

and if he cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be jointly liable to the charges made for such use.

All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under this section shall be decided by the Divisional Canal officer, and his decision shall be final, unless the Local Government shall otherwise direct.

Liability when water runs to waste.

XXXIV. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Water-rate by whom payable when charged on land held by several owners.

XXXV. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits before division, or may be recovered by him

from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Water-rates on Irrigated Lands.

Charge on occupier for water how determined.

'Occupier's rate.'

XXXVI. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly. A rate so charged shall be called the 'occupier's rate.'

'Owner's rates.'

XXXVII. In addition to the occupier's rate a rate to be called the 'owner's rate' may be imposed on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

Effect of introduction of canal irrigation on landlord's right to enhance rent.

The introduction of canal-irrigation into any land shall have the same effect on the landlord's right to re-enhance the rent of a tenant with a right of occupancy of such land, as if a general revision of settlement had taken place, under which the revenue payable in respect of such land had been increased.

Amount of owner's rate.

XXXVIII. The owner's rate shall not exceed one-half of the increase produced by the canal-irrigation in the nett annual value of the land in respect of which it is imposed.

When occupier is to pay both owner's rate and occupier's rate.

XXXIX. If such land is occupied by the owner, or if it is occupied by a tenant whose rent is not liable to enhancement on the ground that the value of the produce of the land or the productive powers of the land have been increased by irrigation, such owner or occupier shall pay the owner's rate as well as the occupier's rate.

Local Government to make rules for apportioning owner's rate.

XL. In the case of a tenant with a right of occupancy, the Local Government shall make rules for dividing the owner's rate between the landlord and such tenant, proportionately to the extent of the beneficial interest of each.

When owner is to pay owner's rate.

XLI. If the owner of the land is not the occupier, but has power to enhance the rent of the occupier on the ground that the value of the produce or the productive powers of the land have been increased by irrigation, or if when the amount of rent was fixed, the land was irrigated from the canal, the owner shall pay the owner's rate.

Reduction to be made in land-revenue assessed at irrigation rates before owner's rate is charged.

XLII. No owner's rate shall be chargeable, either on the owner or occupier of land assessed to pay land revenue at canal-irrigation rates, unless a reduction has been made in such land-revenue equal to the amount by which it has been increased on account of the canal-irrigation of the land:

Provided that the owner's rate shall in no case, during the currency of an unexpired settlement, exceed the amount by which such land-revenue was so reduced.

Deduction from rent of tenant paying owner's rate.

XLIII. A tenant not liable to enhancement of rent on the ground stated in Section 41, who is charged with, and pays, the owner's rate on land assessed at canal-irrigation rates, may deduct from his rent a sum equal to any

sum which may, under the last section, be deducted from the revenue payable by the owner of the land.

Water-rate on Lands irrigable, but not irrigated.

Special rate on irrigable land.

XLIV. At any time not less than five years after the commencement of irrigation from any canal, the Local Government may order an inquiry to be made by an officer appointed for that purpose into the condition of such canal and the irrigation therefrom. If, upon the report of such officer, the Local Government is satisfied that the owners or occupiers of lands irrigable by such canal have not made reasonable use of the canal for purposes of irrigation, the Local Government may, with the previous sanction of the Governor-General in Council, issue a notification in the official Gazette declaring that the owners of such lands, within local limits to be specified in the notification, shall be charged with a special rate according to the provisions hereinafter contained.

Levy of special rate.

XLV. Such special rate shall be levied yearly or half-yearly as the Local Government shall direct.

Limit on rate.

XLVI. No such special rate shall exceed one rupee per half-year per acre of land in respect of which the rate is charged.

Bar of special rate in case of failure to supply sufficient water.

XLVII. No such special rate shall be charged in respect of any land if during the year or half-year (as the case may be) in respect to which such yearly or half-yearly rate might otherwise be claimed, water sufficient for the irrigation of such land has not been supplied when required by the owner or occupier thereof.

'Irrigable lands.'

XLVIII. For the purposes of Section 44, land shall be deemed irrigable by a canal when the following conditions are complied with in respect thereto :—

(*a.*)—That it is cultivated and not irrigated;

(*b.*)—That the nett annual value of the produce of the land or the productive powers thereof will be increased by the irrigation thereof by canal-water, after deducting all necessary charges incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation;

(*c.*)—That the Divisional Canal officer shall have tendered to the occupier or owner thereof a supply of canal-water sufficient for the irrigation thereof in the manner customary in the irrigation of land from a canal;

(*d.*)—That the Divisional Canal officer shall have offered to the said occupier or owner to construct the works necessary for conveying the water to the said land, under Section 16, or (if the said occupier or owner shall so prefer) to apply the provisions of Sections 21, 22 and 23 for the construction or transfer of a water-course,

or shall have tendered an advance of money sufficient to provide for the construction of the said works; such advance to be re-payable in conformity with the rules for recovering advances made under the Act for the time being in force as to advances for improvements in land.

If any question shall arise whether the said conditions are complied with in respect of any land, it shall be determined in the same manner as suits relating to rent under the law for the time being in force.

Provisions relating to owner's rate applied to special rate.

XLIX. The provisions of Sections 39, 40 and 41 shall apply to the payment of a special rate charged under Section 44, as though such rate had been an owner's rate.

Water-rate on Land benefited by Percolation.

Rate on land adjacent to canal, indirectly benefited.

L. If it shall appear to the Divisional Canal officer that any cultivated land, situate within three hundred yards of the edge of any artificial canal maintained by Government, receives by percolation from such canal, an advantage equivalent to that which would be given by direct supply of canal-water for irrigation, he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for such a supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Recovery of Charges.

Certified dues recoverable as land-revenue.

LI. Any sum, certified by the Divisional Canal officer to be lawfully due under this Act, which remains unpaid after the day on which the same becomes due, shall be recoverable by the Deputy Commissioner from the person liable for the same as though it were an arrear of land-revenue.

Power to contract for collection of canal-dues.

LII. The Divisional Canal officer or the Deputy Commissioner may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person shall make default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Deputy Commissioner under Section 51; and if such sum or any part of it be still due by such third party, then such sum or such part of it may be recovered in like manner by the Deputy Commissioner from such third party.

Lambardárs may be required to collect dues.

LIII. The Deputy Commissioner may require the lambardár or person under engagement to pay the land-revenue of any estate, to collect and pay any sums, payable under this Act by a third party in respect of any land or water in such estate.

PART IV.

NAVIGATION.

Detainer of vessels violating rules.

LIV. Any vessel which enters or navigates any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the vessels therein, may be removed and detained

by the Divisional Canal officer, or by any person duly authorized in that behalf.

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal officer shall, with the approval of the Superintending Canal officer, determine to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

LV. A fine imposed under the provisions of this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or if the Magistrate imposing the fine shall so direct, as though it were a charge due on account of such vessel.

Power to seize and detain vessel on failure to pay charges.

LVI. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal officer may seize and detain such vessel and the furniture thereof, until the charge due, together with all expenses and additional charges arising from such seizure and detention, are paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

LVII. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in canal-lands or warehouses, is not paid on demand to the person authorized to collect the same, the Divisional Canal officer may seize such cargo or goods and detain them until the charges so due, together with all expenses and additional charges arising from such seizure and detention, be paid in full.

Procedure for recovery of such charges after seizure.

LVIII. Within a reasonable time after any such seizure as is described in the two last preceding sections, the said Canal officer shall give notice to the owner or person in charge of the property seized, that it or such portion of it as may be necessary, will on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named:

And if such claim be not so discharged, the said Canal officer may, on such day, sell the property seized, or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as near as may be, suffice to cover the amount due in respect of such vessel, cargo or goods.

The residue of such furniture, cargo or goods and of the proceeds of the sale, shall be made over to the owner or person in charge of the same.

Procedure in respect of vessels abandoned and goods unclaimed.

LIX. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal or stored on or in canal lands or ware-houses be left unclaimed for a period of two months, the

Divisional Canal officer may take possession of the same. A Divisional officer so taking possession may publish a notice, that, if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel or cargo be not so claimed, he may at any time after the day named in the notice proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Canal officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal officer. If the divisional Canal officer is doubtful to whom such property or proceeds of such sale should be made over, he may direct the property to be sold as aforesaid, and the proceeds of the sale to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

PART V.

DRAINAGE.

Removal of Obstructions of Drainage-channels

Power to prohibit obstructions or order their removal.

LX. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream or drainage-channel, such Government may, by notification in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other alteration of such obstruction. And thereupon, so much of the said river, stream, or drainage-channel as shall be comprised within such limits, shall be held to be a drainage-work as defined in this Act.

Power to remove obstructions after prohibition.

LXI. The Divisional Canal officer, or other person authorized by the Local Government in that behalf, may, after the publication of such notification, issue an order to the person causing or having control over any such obstruction, to remove or alter the same.

If within a time to be fixed in the order, such person shall not remove or alter such obstruction, the said Canal officer may himself remove or alter it; and if the person to whom the order was issued shall not, when called upon, pay the expenses involved in such removal or alteration, such expenses shall be recoverable from him or his representative as an arrear of land-revenue.

Improvement of Drainage of Lands.

Preparation of schemes for works of improvement.

LXII. Whenever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof,

or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands,

such Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

LXIII. The persons authorized by Government to draw up such scheme may exercise all or any of the powers conferred on Canal officers by Section 14 of this Act.

Rate on lands benefited by works.

LXIV. An annual rate, in respect of such scheme, may be charged on the owners of all lands which shall, in the manner hereinafter provided, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1.) Six per cent. per annum on the first cost of the said works, adding thereto the estimated cost of the annual maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :

(2.) In the case of agricultural land, one-half of the estimated increase to the annual value of the land, due to the improvement to be effected by the works.

Such rate may be varied, from time to time, within such maximum, by the said Government.

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Government or any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by the Government or such person.

Recovery of rate.

LXV. Any such drainage-rate shall be recoverable as a water-rate.

Disposal of claims to compensation.

LXVI. Whenever, in pursuance of a notification made under Section 60, any obstruction is removed, or whenever any drainage-work is carried out under Section 62, all claims for compensation, on account of any loss consequent on the removal of the said obstruction or construction of such work, may be made before the Deputy Commissioner, and he shall deal with the same in the manner provided in Section 10.

Limitation of such claims.

LXVII. No such claim shall be entertained unless it be made within one year next after the commencement of the loss complained of.

PART VI.

Obtaining Labour for Canals and Drainage-Works.

Definition of 'labourer.'

LXVIII. For the purposes referred to in this Part, the word 'labourer' includes persons who exercise any handicraft which shall be specified in rules to be made in that behalf by the Local Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal or drainage-work.

LXIX. In any district in which a canal or drainage-work is projected, constructed or maintained by Government, the Local Government may, if it thinks fit, direct the Deputy Commissioner to ascertain the proprietors, sub-proprietors or farmers whose villages or estates

are or will be, in the judgment of the Deputy Commissioner, benefited by such canal or drainage-work, and to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work, when required as hereinafter provided.

The Deputy Commissioner may, from time to time, add to or alter such list or any part thereof.

Procedure for obtaining labourers for works urgently required.

LXX. When it appears to a Divisional Canal officer duly authorized by the Local Government, that, unless some work is immediately executed, serious injury will happen to any canal or drainage-work, whereby the proper operation of such canal or drainage-work will be stopped or so much interfered with as to prevent the established course of irrigation or drainage being continued, or to cause sudden and extensive public injury, and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to avoid such consequences, the said officer may require any person named in such list, to furnish so many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seems necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state the nature and locality of the work to be done, the number of labourers to be supplied by the person upon whom the requisition is made, the approximate time for which and the day on which the labourers will be required; and a copy thereof shall be immediately sent to the Superintending Canal officer for the information of the Local Government.

The rates to be paid to any such labourers, in excess of the highest rates paid in the neighbourhood for similar work, shall be fixed by the Local Government, and the payment shall extend to the whole period during which any such labourer is absent from his ordinary home.

The Local Government may direct that the provisions of this Part shall be applicable to any district or part of a district for the purpose of effecting necessary annual silt clearances.

Liability of labourers under requisition.

LXXI. When any requisition has been made on any such person, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

PART VII.

JURISDICTION.

Decision of Differences regarding Water-courses.

Jurisdiction of Civil Courts.

LXXII. Unless where otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts, but no such

Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

LXXIII. Whenever a difference arises between any persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, any such person may present an application in writing to the Divisional Canal officer stating the matter in dispute; and such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And after such enquiry the said officer shall pass his order thereon, unless he transfers the matter to the Deputy Commissioner, who shall thereupon enquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force, until set aside by the decree of a Civil Court.

Powers, as to witnesses, of officers conducting inquiry under Act.

LXXIV. Any officer empowered under this Act to conduct any inquiry may exercise all such powers, connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.

PART VIII.

OFFENCES AND PENALTIES.

Offences.

LXXV. Whoever without proper authority and voluntarily does any of the acts following, that is to say :—

(1) injures, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, injure, or render less useful any canal or drainage-work;

(4) being responsible for the maintenance of or using a water-course, neglects to take proper precautions for the prevention of waste of the water in such water-course, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(6) causes any vessel to enter or navigate any canal contrary to the authorized rules laid down for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon;

(8) being liable to furnish labourers under Part VI. fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VI. neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-gauge fixed by the authority of a public servant;

(11) violates any rule made under this Act, for breach whereof a penalty may be incurred.

Penalty.

shall be liable, on conviction before any Magistrate, to a fine not exceeding 50 Rupees, or to imprisonment not exceeding one month, or to both.

Saving of prosecution under other laws.

LXXVI. Nothing contained herein shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Compensation to person injured.

LXXVII. Whenever any person is fined for an offence under this Act, the Magistrate may direct that any part of such fine may be paid to the person who has suffered by such offence, by way of compensation.

Power to arrest without warrant in certain cases.

LXXVIII. Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging to such canal or drainage-work, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest Police station, to be dealt with according to law, any person who, within his view, commits any of the following offences :—

(1) wilfully injures or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, injure or render less useful any canal or drainage-work;

(3) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal or drainage-work, contrary to authorized rules, after he has been desired to desist therefrom.

Rules to be made.

Power to make rules.

LXXIX. The Local Government may, with the previous sanction of the Governor-General in Council, make, and may, with the like sanction, from time to time, alter or cancel rules to regulate the following matters :—

(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(4) the amount of any charge made under this Act;

(5) and generally to carry out the provisions of this Act.

Such rules, alterations or cancelments shall, when published in the official Gazette, have the force of law.

SCHEDULE.

Number and year.	Title.	Extent of repeal.
VII of 1845. ...	An Act for regulating the levy of Water Rent, Tolls, and Dues on certain canals for irrigation and navigation, constructed by Government in the North-Western Provinces, and for the protection of the said canals from injury.	The whole so far as it affects the Punjáb.
XII of 1866. ...	An Act to provide for the compulsory taking of rights to form and maintain private water-courses from Public Works of irrigation.	The whole so far as it affects the Punjáb.

ACT No. XXXI. OF 1871.

THE INDIAN WEIGHTS AND MEASURES OF CAPACITY ACT, 1871.

I.—PRELIMINARY.

1. Short title. Local extent.

II.—STANDARDS.

2. Standard of Weight.
3. Units of Weights and Measures Capacity.
4. Special Weights and Measures of Capacity may be authorized.
5. Districts and Sub-districts how defined.
6. Primary standards to be provided.

III.—USE OF NEW WEIGHTS AND MEASURES OF CAPACITY.

7. Local Standards to be provided.
8. Use of new Weights and Measures of Capacity in Government offices, &c.
9. Contracts by Weight or Measure of Capacity.

IV.—WARDENS.

10. Appointment of Wardens.
11. Power to make rules.
12. Publication of rules. Rules, when specially applied, to have force of law.
13. Officers of Government and others to comply with rules.
14. Warden may refuse to verify or correct things unfit.
15. Exercise of any of Warden's powers.
16. Counterfeiting Warden's marks.
17. Tables of equivalents.

An Act to regulate the Weights and Measures of Capacity of British India.

Preamble.

Whereas it is expedient to provide for the ultimate adoption of an uniform system of Weights and Measures of Capacity throughout British India; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title. Local extent.

I. This Act may be called "The Indian Weights and Measures of Capacity Act, 1871," and extends to the whole of British India.

II.—STANDARDS.

Standard of Weight.

II. The Primary Standard of Weight shall be called a Serand shall be a Weight of metal in the possession of the Government of India, equal when weighed in a vacuum to the weight known in France as the Kilogramme des Archives.

Units of Weights and Measures of Capacity.

III. The Units of Weights and of Measures of Capacity shall be—

for Weights, the said Ser;

for Measures of Capacity, a measure containing one such Ser of water at its maximum density, weighed in a vacuum.

Special Weights and Measures of Capacity may be authorized.

IV. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare the magnitude and denominations of the Weights and Measures of Capacity, other than the said units, to be authorized under this Act:

Provided that every such Weight or Measure of Capacity shall be an integral multiple or integral sub-multiple of one of the units aforesaid.

The Governor-General in Council may, in like manner, revoke such notification.

Unless it be otherwise ordered in any such notification, the sub-divisions of all such Weights and Measures of Capacity shall be expressed in decimal parts.

District how defined.

V. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, define the limits of districts for the purposes of this Act.

Sub-district how defined.

The Local Government may, from time to time, by notification in the official Gazette, define limits of Sub-districts for the purposes of this Act.

Primary standards to be provided.

VI. The Governor-General in Council may provide for such districts as it thinks fit, proper primary standards and sets of the said authorized Weights and Measures of Capacity.

Such standards shall, for the purposes of this Act, be deemed the standards for such districts.

Local Standard to be provided.

VII. The Local Government may provide, for such Sub-districts as it thinks fit, copies of such of the said authorized Weights and Measures of Capacity as shall be necessary to serve as local standards in such Sub-districts.

Such local standards shall be deemed correct, until they are proved to be otherwise.

III.—Use of new Weights and Measures of Capacity.

Use of new Weights and Measures of Capacity in Government Office, &c.

VIII. Whenever the Governor-General in Council considers that proper standard Weights and Measures of Capacity have been made available for the verification of the Weights and Measures of Capacity to be used by any Government Office or Municipal Body or Railway Company, the Governor-General in Council may, by notification in the *Gazette of India*, direct that after a date to be fixed therein, all or any of the Weights and Measures of Capacity authorized as aforesaid shall be used in dealings and contracts by such Office, Body or Company; and may, in like manner, from time to time, alter or revoke such direction.

Contracts by Weight or Measure of Capacity.

IX. After the date fixed in any notification under Section 8, all dealings and contracts had and made by the Officers, Bodies or Companies, mentioned in such notification, for any work to be done or goods to be sold or delivered by Weight or Measure of Capacity shall, in the

absence of a special agreement to the contrary, be deemed to be had and made according to the Weights or Measures of Capacity directed in such notification to be used by such Officers, Bodies or Companies.

IV.—Wardens.

Appointment of Wardens.

X. The Governor-General in Council and the Local Government, respectively, shall appoint Wardens for the custody of the primary and local standards and sets of authorized Weights and Measures of Capacity hereinbefore mentioned.

The Governor-General in Council, or the Local Government, respectively, may, at any time, suspend or remove any such Warden and appoint another.

Power to make rules.

XI. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the following matters:—

(*a.*)—The appointment of Wardens;

(*b.*)—The guidance of Wardens in all matters connected with the performance of their duties;

(*c.*)—The provision, replacement, custody and use of the standards;

(*d.*)—The method of verifying local Standards and Weights, Weighing Machines and Measures of Capacity authorized under this Act, and Balances, and of certifying such verification; provided that such verification shall not be required to be made oftener than once in two years;

(*e.*)—The errors which may be tolerated in Weights, Weighing Machines and Measures of Capacity authorized under this Act, and in Balances;

(*f.*)—The shapes, proportions and dimensions to be given to Weights, Weighing Machines and Measures of Capacity authorized under this Act, and to Balances, and the materials of which they may be made;

(*g.*)—Marking Weights and Measures of Capacity authorized under this Act with their several denominations;

(*h.*)—The conditions under which Government Offices, Municipal Bodies and Railway Companies, shall be subject to inspection and verification of the Weights, Weighing Machines and Measures of Capacity authorized under this Act, and of the Balances used by them;

(*i.*)—The fees to be paid for verifying, correcting and certifying the verification of Weights, Weighing Machines and Measures of Capacity authorized under this Act, and of Balances.

Publication of rules.

XII. Such rules shall be published in the *Gazette of India.*

Rules, when specially applied to have force of law.

And the Governor-General in Council may, by notification in the *Gazette of India*, declare that, from and after a day to be named therein, all or any of the said rules shall come into force in respect of any Government Office, Municipal Body or Railway Company, and thereupon, to the extent specified in such notification, such rules or rule shall have the force of law.

Officers of Government and others to comply with rules.

XIII. All officers of Government, Municipal officers and officers and servants of Railway Companies, shall comply with such rules so far as they concern them, and pay such fees as the said rules shall prescribe.

Warden may refuse to verify or correct things unfit.

XIV. The Warden may deface, or render incapable of use, or refuse to verify, correct, or mark, anything brought to him for verification or correction, which appears to him unfit for verification or correction.

Exercise of any of Warden's powers.

XV. Any of the powers and duties conferred and imposed by this Act on a Warden may be exercised and performed by any other officer whom the Local Government may, from time to time, appoint.

Counterfeiting Warden's marks.

XVI. Whoever knowingly counterfeits any mark used by a Warden under Section 11, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Tables of equivalents.

XVII. The Local Government may, from time to time, prepare tables of the equivalents of Weights and Measures of Capacity, other than those authorized under this Act, in terms of the Weights and Measures of Capacity so authorized, and the equivalents so stated, after notification in the local official Gazette, shall be deemed the true equivalents.

Act No. XXXII. of 1871.

THE OUDH CIVIL COURTS' ACT, 1871.

CHAPTER I.

1. Short title. Extent of Act. Commencement.
2. "Division" defined.
3. Repeal of enactment.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

4. Grades of Courts in Oudh.
5. Power to fix number of Courts.
6. Appointment of officers.
7. Confirmation of existing Courts and officers.
8. Control over subordinate Courts.
9. Courts to be Civil Courts under Civil Procedure Code. Seal to be used. Place for holding Court.

CHAPTER III.

JURISDICTION.

10. Power to fix local jurisdiction of Courts. Existing local jurisdiction preserved.

Original Jurisdiction.

11. Extent of ordinary jurisdiction. Power to extend jurisdiction of certain officers. Orders conferring extended jurisdiction to have force of law.
12. Distribution of business by Deputy Commissioner.
13. Power of Commissioner to withdraw suits from subordinate Courts.
14. Modification of Section 12, Act VIII of 1859.

Appellate Jurisdiction.

15. Appeals.
16. Power of Commissioner to withdraw appeals.
17. When Judicial Commissioner may receive second appeal.
18. Decision of first appellate Court when final. Reference to Judicial Commissioner.
19. Procedure on such reference.
20. Costs of reference.
21. Time for presenting appeal to Commissioner in other cases.
22. Appointment of Extra Judicial Commissioner.
23. Reference to High Court, North-Western Provinces.
24. Procedure of High Court thereupon.
25. Section 20 to apply to reference to High Court.

Special Jurisdiction.

26. Power to invest settlement officers with powers of Civil Courts in certain cases.
Exclusion of jurisdiction of Civil Courts in district under settlement.
Power to transfer cases from settlement officers, to Civil Courts.
27. Trial of suit relating to land and to other property.
28. Limitation law not to apply to certain suits relating to tenures.
29. Bar of redemption-suits when mortgage executed before 13th February, 1844.
30. Redemption-suits not barred where fixed term for redemption had not expired before 13th February, 1856.

CHAPTER IV.

MISCELLANEOUS.

31. Certain decisions to be according to Native law.
32. Presiding officer of Court not to try suits in which he is himself interested.
Disposal of such suits. Power to appoint Additional Judicial Commissioner.
33. Suspension and removal of presiding officers.
34. Appointment of ministerial officers of lower Courts.
35. Fining, suspension and removal of ministerial officers.
36. Appointment of ministerial officers of superior Courts.
37. Removal, suspension and fining of such officers.
38. Recovery of fines
39. Saving of general control of Chief Commissioner.
40. Amendment of Act XIX. of 1868.
SCHEDULE. Acts, and Government Orders repealed.

An Act to consolidate and amend the law relating to the Civil Courts in Oudh.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the Civil Courts in Oudh; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

I. This Act may be called "The Oudh Civil Courts' Act, 1871:"

Extent of Act.

It applies to all Civil Courts in Oudh, except Small Cause Courts;

Commencement.

And shall come into force on the date of the passing thereof.

But all suits, appeals, applications or proceedings instituted previous to such date shall be heard and disposed of by the Courts in which they were instituted.

'Division' defined.

II. In this Act—

'Division' means the local jurisdiction of the Court of the Commissioner.

Repeal of enactments.

III. The Acts and orders mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of such schedule, except as to the suits, appeals, applications or proceedings mentioned in Section 1.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Grades of Courts in Oudh.

IV. There shall be five grades of Courts in Oudh, namely:—

(1.) The Court of the Tahsíldár;

(2.) The Court of the Assistant Commissioner or Extra Assistant Commissioner;

(3.) The Court of the Deputy Commissioner or of the Civil Judge of Lucknow;

(4.) The Court of the Commissioner;

(5.) The Court of the Judicial Commissioner.

Power to fix number of Courts.

V. The Governor-General in Council shall fix, and may, from time to time, vary the number of Courts of each grade to be established under this Act.

Appointment of officers.

VI. The Judicial Commissioner, Commissioners, Deputy Commissioners, Civil Judge of Lucknow and Assistant Commissioners shall be appointed by the Governor-General in Council.

The Extra Assistant Commissioners and Tahsíldárs shall be appointed by the Chief Commissioner.

Confirmation of existing Courts and officers.

VII. All existing Courts corresponding to the grades mentioned in Section 4 and the presiding officers thereof, shall be deemed to have been respectively established and appointed under this Act.

Control over subordinate Courts.

VIII. The general control over all the Courts of the first and second grades in any District is vested in the Deputy Commissioner, and the like control over the said Courts and of the Courts of the third grade in any Division is vested in the Commissioner, subject to the superintendence of the Judicial Commissioner.

Courts to be Civil Courts under Civil Procedure Code.

IX. Every Court under this Act shall—

(1) be a "Civil Court" within the meaning of the Code of Civil Procedure;

Seal to be used.

(2) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner; and

Place for holding Court.

(3) be held at such place or places as may be, from time to time, directed by the Chief Commissioner.

CHAPTER III.

JURISDICTION.

Power to fix local jurisdiction of Courts.

X. The Chief Commissioner shall, with the previous sanction of the Governor-General in Council, fix, and may, from time to time, vary the local limits of the jurisdiction of any Civil Court under this Act.

Existing local jurisdiction preserved.

The present local limits of the jurisdiction of every Civil Court shall be deemed to be fixed under this Act.

Original Jurisdiction.

Extent of ordinary jurisdiction.

XI. The Courts mentioned in the first column of the subjected table shall ordinarily have jurisdiction in the adjudication of suits of every description arising within their local jurisdiction to the extent specified in the second

column thereof: Provided that no suit cognizable by a Court of Small Causes shall, within the local limits of the jurisdiction of any such Court, be heard or determined by any other Court.

(1.) The Tahsildâr.	(1.) When the amount or value of the subject-matter of the suit does not exceed one hundred rupees.
(2.) The Assistant Commissioner or Extra Assistant Commissioner.	(2.) When such amount or value does not exceed five hundred rupees.
(3.) The Deputy Commissioner or the Civil Judge of Lucknow.	(3.) Whatever be the amount or value of the subject-matter of the suit.

Power to extend jurisdiction of certain officers.

But the Chief Commissioner may invest any Tahsîldâr with power to try suits of which the amount or value of the subject-matter does not exceed 500 Rupees, and may also empower any Assistant Commissioner or Extra Assistant Commissioner to try suits of which the amount or value of the subject-matter does not exceed 5,000 Rupees.

Orders conferring extended jurisdiction to have force of law.

All orders of the Chief Commissioner investing any Tahsîldâr, Assistant Commissioner or Extra Assistant Commissioner with such extended jurisdiction shall be duly notified in the local official Gazette, and shall thereupon have the same force and effect as if the said jurisdiction had been expressly conferred by this Act upon the Courts presided over by the officers so invested.

Distribution of business by Deputy Commissioner.

XII. The Court of the Deputy Commissioner shall be deemed to be the principal Civil Court of original jurisdiction in any district, and he may direct the business in the Courts of the first and second grades to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Power of Commissioner to withdraw suits from subordinate Courts.

XIII. The Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent in respect of the value or amount of the suit to try the same.

Modification of section 12, Act VIII. of 1859.

XIV. Section 12 of Act VIII. of 1859 shall be read, as regards the trial of suits in Oudh, subject to the following modification, namely :—

(1.)—When the suit is for immoveable property situate within the local jurisdiction of different District Courts included in the same division, the application for authority to proceed with the suit shall be made to the Commissioner of such division.

(2.)—When the said Courts belong to different divisions, the application shall be made to the Commissioner of the division in which the district wherein the suit was instituted is included.

Appellate Jurisdiction.

Appeals.

XV. (1.)—Appeals from the decrees and orders in original suits and proceedings of the Courts of the first and second grades shall, when such appeals are allowed by law,

ordinarily lie to the Deputy Commissioner. But where the amount or value of the subject-matter of any such suit or proceeding exceeds 1,000 Rupees, the appeal shall lie to the Commissioner.

(2.)—Appeals from such decrees and orders of the Court of the Deputy Commissioner, when such appeals are allowed by law, shall lie to the Commissioner.

(3.)—An appeal from any such decree or order passed by the Commissioner shall, when such appeal is allowed by law, lie to the Judicial Commissioner, whose Court shall be deemed to be the highest Court of Appeal.

Power of Commissioner to withdraw appeal.

XVI. The Commissioner may withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his division.

When Judicial Commissioner may receive second appeal.

XVII. If the decision of a Deputy Commissioner or a Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal; if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

Decision of first appellate Court when final.

XVIII. If the Court of first appeal confirms the decision of the Court of first instance, such decision shall be final:

Reference to Judicial Commissioner.

Provided that where, in the trial of any appeal, such appellate Court entertains any doubt in regard to a question of law or usage having the force of law, or as to the construction of a document affecting the merits of the decision, the Court may, either of its own motion or on the application of any of the parties to the case, draw up a statement of the case, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner.

Procedure on such reference.

XIX. The Judicial Commissioner, after hearing and considering the case so referred, shall send a copy of his Judgment to the Court by which the reference was made, and such Court shall, on the receipt of the copy, proceed to dispose of the case in conformity with the decision of the Judicial Commissioner.

Costs of reference.

XX. Costs, if any, consequent on the reference of the case to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

Time for presenting appeal to Commissioner.

XXI. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order; and, in all other cases, within the periods fixed by the law of limitation relating to the presentation of appeals for the time being in force.

In other cases.

Appointment of Extra Judicial Commissioner.

XXII. Whenever the state of business in the Court of the Judicial Commissioner is such that he cannot dispose of the same with reasonable dispatch, he may cause a list of the appeals pending in his Court to be prepared and sent to the Chief Commissioner, and such Chief Commissioner, with the sanction of the Governor-General in Council, may, if he think fit, appoint a Commissioner to be an Additional Judicial Commissioner for the disposal of such appeals or any of them.

Reference to High Court, North Western Provinces.

XXIII. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal under this Act, he may make a reference to the High Court of the North-Western Provinces of the Presidency of Bengal, and shall transmit the record of the case referred, and all the proceedings connected therewith, to the said Court.

Procedure of High Court thereupon.

XXIV. The High Court shall, with as little delay as possible, proceed to try the case referred as if it were an appeal instituted in such Court, and shall send a copy of its judgment to the Judicial Commissioner, who shall dispose of the case in conformity therewith.

Section 20 to apply to reference to High Court.

XXV. The provisions of Section 20, as to the adjustment of costs, shall apply to cases referred under the last preceding section.

Special Jurisdiction.

Power to invest settlement officer with powers of Civil Courts in certain cases.

XXVI. In any district in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the sanction of the Governor-General in Council, may invest any officer making or controlling such settlement with all or any of the powers of Civil Courts of the first, second, third or fourth grades, for the purpose of trying suits and appeals relating to land assessed to revenue, or the rent, revenue or produce of such land, arising in such district.

Exclusion of jurisdiction of Civil Courts in district under settlement.

Any district in which such officers have been so invested shall, for the purposes of this section, be deemed to be under settlement until such time as the Governor-General in Council shall otherwise direct; and the jurisdiction of the Ordinary Civil Courts of those grades shall be excluded in respect of such suits and appeals during that period:

Power to transfer cases from settlement officers, to Civil Courts.

Provided that the Chief Commissioner may direct that any cases pending before the settlement officers invested with the powers mentioned in the former part of this section shall be transferred to the ordinary Civil Courts of the district, if the state of business in his opinion requires it.

Trial of suit relating to both land and other property.

XXVII. If, before any officer so invested, a suit relating both to such land and other property be instituted, the said officer shall make a reference regarding the disposal of such suit to the Commissioner of the division in which the district wherein the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Limitation law not to apply to certain suits relating to tenures.

XXVIII. No suit relating to any tenure which shall be cognizable by the Court of any settlement officer under this Act, shall be barred under the law for the time being in force relating to the limitation of suits, if the cause of action arose on or after the thirteenth day of February, 1844.

Bar of redemption suits when mortgage executed before 13th February, 1844.

XXIX. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him notwithstanding.

Redemption suits not barred where fixed term for redemption had not expired before 13th February, 1856.

XXX. Nothing herein contained shall be taken to bar a suit for redemption in any case, where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February, 1856. Provided that, if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

CHAPTER IV.

MISCELLANEOUS.

Certain decisions to be according to Native law.

XXXI. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has by legislative enactment been altered or abolished, or is opposed to any custom prevailing in the province of Oudh.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Presiding officer of Court not to try suits in which he is personally interested.

XXXII. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

Disposal of such suits.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

The superior Court shall thereupon dispose of the case in the manner prescribed by Section 6, Act VIII. of 1859.

Power to appoint Additional Judicial Commissioner.

In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall report the fact to the Chief Commissioner, who, with the sanction of the Governor-General in Council, shall appoint a Commissioner to be an Additional Judicial Commissioner for the disposal of the case.

Suspension and removal of presiding officers.

XXXIII. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor-General in Council.

The presiding officer of any Court of the second, third or fourth grades may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor-General in Council.

The presiding officer of any Court of the first grade may, for any misconduct, be suspended or removed by the Chief Commissioner.

Appointment of ministerial officers of lower Courts.

XXXIV. The ministerial officers of the Courts of the first and second grades shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

Fining, suspension and removal of ministerial officers.

XXXV. Every Court of the first and second grades may fine in an amount not exceeding one month's salary, any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. The Deputy Commissioner, subject only to the general control of the Commissioner, may on appeal or otherwise reverse or modify every such order, and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary any ministerial officer of any Court subordinate to him.

Appointment of— ministerial officers of superior Courts.

XXXVI. The Civil Judge of Lucknow, Deputy Commissioner, and Judicial Commissioner shall appoint the ministerial officers of their respective Courts; Provided that the appointment by the Civil Judge of Lucknow or a Deputy Commissioner or Commissioner of a ministerial officer whose monthly salary exceeds fifty rupees shall be subject to the sanction of the Judicial Commissioner.

Removal, supension and fining of such officers.

XXXVII. The Civil Judge of Lucknow, Deputy Commissioner, Commissioner and Judicial Commissioner may remove or suspend the ministerial officers of their respective Courts, or fine them in an amount not exceeding one month's salary; but every such removal or suspension made by a Commissioner, Deputy Commissioner or the Civil Judge of Lucknow shall be subject to the general control of the Judicial Commissioner.

Recovery of fine.

XXXVIII. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

Saving of general control of Chief Commissioner.

XXXIX. Nothing in this chapter shall be deemed to bar the general control of the Chief Commissioner over all appointments and removals of ministerial officers under this Act.

Amendment of Act XIX. of 1868.

XL. Act XIX. of 1868 shall be construed as if for "Financial Commissioner" in Sections 84, 93, 94 and 98, the words "Judicial Commissioner," and in Section 99 the words "Commissioner" were substituted.

SCHEDULE.

ACTS.

No. and Year.	Title.	Extent of repeal.
Act VIII. of 1859 ...	An Act for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	Sections 332, 372, 373, 374 and 375, so far as they relate to Oudh.
Act XIV. of 1865 ...	An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.	The whole so far as it relates to Oudh.
Act XVI. of 1865 ...	An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oudh in suits relating to land, and to enlarge the period of limitation in such suits.	The whole.
Act XIII. of 1866 ...	An Act to exempt certain suits in Oudh from the operation of the rules of limitation in force in that Province.	The whole.
Act XXVII. of 1867 ...	An Act to empower Deputy Commissioners in the Central Provinces, the Punjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.	So far as it relates to Oudh.
Act XI. of 1871 ...	An Act to abolish the Financial Commissionership of Oudh.	The whole.

GOVERNMENT ORDERS.

No. 12, dated 4th February, 1856. No. 3502, dated 6th October, 1858.	.....	So much as prescribes the constitution and jurisdiction of the Civil Courts in Oudh.
Notification dated 6th August, 1861.	.....	First proviso.
Notification dated 3rd April, 1871, 724 G.	.....	The whole.

ACT No. XXXIII. OF 1871.

THE PUNJÁB LAND-REVENUE ACT, 1871.

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An Act to consolidate and define the law relating to the settlement and collection of Land-Revenue in the Punjáb, and for other purposes.

Preamble.

Whereas the Government of India is by law entitled to a proportion of the produce of the land of the Punjáb to be, from time to time, fixed by itself; and whereas it is expedient to consolidate and define the law relating to the settlement and collection thereof, and to the duties of Revenue Officers in the Punjáb; It is enacted as follows :—

PRELIMINARY.

Short title.

I. This Act may be called 'The Punjáb Land-Revenue Act, 1871 :'

Local extent.

It extends to the territories subject to the Lieutenant-Governor of the Punjáb, but not so as to affect the validity of any Regulation made by the Governor-General under the provisions of 33 Vic., Cap. 3, for any portion of the territories to which this Act extends;

Commencement.

And it shall come into force on the first day of January, 1872.

'Estate' defined.

For the purposes of this Act, 'estate' means a village or other local area with which a separate settlement is made.

CHAPTER I.

REVENUE OFFICERS.

Grades of Revenue Officers.

II. There shall be in the Punjáb the following grades of Revenue Officers :—

(1) the Financial Commissioner, who shall, subject to the Lieutenant-Governor, be the chief controlling revenue authority in the Punjáb;

(2) Commissioners, each of whom shall, subject to the control of

the Financial Commissioner, be the chief controlling revenue authority within a division ;

(3) Deputy Commissioners, each of whom shall, subject to the control of the Commissioner, be the chief executive revenue authority in a district ;

(4) Tahsildàrs, each of whom shall, subject to the control of the Deputy Commissioner, be the chief executive revenue authority in a tahsil or sub-district.

Appointment and removal of Financial Commissioner.

III. The Financial Commissioner shall be appointed and may be removed by the Local Government with the previous sanction of the Governor-General in Council.

Appointment and removal of Commissioners, &c.

IV. Commissioners and Deputy Commissioners shall be appointed and may be removed by the Local Government.

Tahsildàrs shall be appointed and may be removed by the Deputy Commissioner with the previous sanction of the Financial Commissioner.

Assistant Commissioners, &c., may be invested with powers of Deputy Commissioner.

V. The Local Government may invest any Assistant Commissioner or Extra Assistant Commissioner with all or any of the powers hereinafter conferred upon Deputy Commissioners.

The Deputy Commissioner may distribute amongst the Assistant Commissioners, Extra Assistant Commissioners and other subordinate officers of his district, as he thinks proper, such revenue duties as, under this or any other Act in force for the time being, they are authorized to perform.

Rules as to village officers.

VI. The Local Government shall make rules as to the appointment, duties, payment and removal of Lambardàrs or Village Headmen, Patwaris or Village Accountants, Kanungos or Superintendents of Village Accountants, such regard as the Local Government thinks fit being had to custom or descent.

Where by any such rule the appointment of Patwaris is directed to be made by the landowners of a village, the neglect or refusal of such landowners to make any such appointment within a prescribed time shall be punishable with such fine as the Local Government directs : and such fine shall be recoverable as an arrear of land-revenue.

CHAPTER II.

Of Settlements.

Settlement in progress.

VII. Whenever the amount of revenue to be paid in a district or other local area is being assessed or re-assessed, or whenever the record of rights hereinafter described is being either made or revised under the provisions hereinafter contained, a settlement is said to be in progress ; a district or other local area in which a settlement is in progress is said to be under settlement.

District under settlement.

Person settled with.

VIII. Whenever any person or persons are permitted to engage with the Government for the payment of revenue due in respect of any land, they are said to be settled with, or a settlement is said to be made with them in respect of that land.

Instructions for settlement to state principle of assessment.

IX. The Local Government shall, with the previous sanction of the Governor-General in Council, give written instructions to the officer in charge of a settlement, stating the principle on which the revenue in such statement is to be assessed. No Court of justice shall be entitled, under any circumstances, to require the production, or shall permit evidence to be given of the contents, of such instructions.

Three kinds of settlements.

X. Settlements may be of the following kinds :—

(1) a summary settlement is a provisional settlement, made pending a first regular settlement: the declaration of the Local Government that a settlement was summary shall be conclusive proof that it was so;

(2) a first regular settlement is a settlement in which the revenue is assessed, and a record of rights is for the first time formed ;

(3) a re-settlement is a settlement, subsequent to a first regular settlement, in which either the revenue is re-assessed, or the record of rights is revised, or in which both these processes are conducted.

Notification of settlement.

XI. Whenever a district or other local area is to be put under settlement, the Local Government shall, with the previous sanction of the Governor-General in Council, issue a notification of settlement.

Such notification shall—

(1) define the local area which is to be put under settlement ;

(2) mention such of the officers by whom it is to be made as to the Local Government seems fit; and, in every case in which judicial powers are conferred, shall specify the powers so conferred: the officers so mentioned shall be called Settlement Officers, and the principal officer so mentioned shall be the officer in charge of the settlement;

(3) declare whether the settlement is a summary settlement, a first regular settlement, or a re-settlement; and, in the case of a re-settlement, whether there is to be a re-assessment of revenue, or revision of the record of rights, or both;

(4) declare whether surveys and plans are to be made, and, in the case of a first regular settlement, whether the boundaries of villages and estates are to be adjusted.

Power to amend notification.

XII. The Local Government may, with the previous sanction of the Governor-General in Council, from time to time, amend the settlement notification, and may prescribe the order in which the settlement officers shall discharge their duties, or alter the duties to be discharged by them.

Local Government may remove Settlement Officers and appoint new ones.

XIII. The Local Government may remove any of the Settlement Officers mentioned in the notification, and appoint others to succeed them, or to act for them during their temporary absence.

Of what documents records of rights are to consist.

XIV. Records of rights hereafter to be made shall consist of the following documents:—

Maps and measurements.

(1.)—Maps and measurement papers, showing the boundaries of the village or place in respect of which the settlement is to be made, and the fields into which it is divided:

Statement of occupants and owners.

(2.)—A statement of the occupiers and owners of the fields specified in the said maps, and of the lands occupied or owned by them, and of the terms on which they are so owned or occupied:

Tender of engagement.

(3.)—A tender on behalf of the person or persons settled with to engage for the payment of the revenue during the term for which the settlement is made:

Statement of holdings, amount of revenue payable, &c.

(4.)—A statement of the shares or holdings of the different persons settled with, and of the amount of revenue for which, as between each other, they are to be responsible; and a statement of persons holding lands free of revenue and of the lands so held:

Terms of payment and village customs.

(5.)—A statement of the terms on which the persons settled with agree to pay the revenue assessed, and of the customs of the village or place in respect of which the settlement is made; such statement shall be so arranged as to distinguish such customs as regulate—

(*a*) the relations of the persons settled with to the Government:

(*b*) the relations of the persons settled with towards one another:

(*c*) the relations of the persons settled with to other persons:

Abstract of proceedings at settlement.

(6).—An abstract of the proceedings at the settlement, which shall contain a statement of all judicial decisions passed by the Settlement Officers in the course of the settlement.

Form, language and contents of documents.

XV. The Local Government shall, from time to time, prescribe the form, language and contents of each of the documents mentioned in the last preceding section, and the manner in which each shall be prepared, signed and attested; and may direct, either generally or in any particular case, other documents besides those specified to be contained in the record of rights.

Proof and effect of decisions by Settlement Officers.

XVI. Judical decisions passed by Settlement Officers shall be proved in the same manner, and shall have, when proved, the same effect, as judgments delivered by Civil Courts.

Authenticated entries in record of rights to be presumed true.

Entries in the record of rights made or authenticated at a regular settlement or re-settlement in the manner prescribed by the Local Government shall be presumed to be true.

Sanction of settlement.

XVII. A settlement notified under Section 11 shall be deemed to be in progress, until sanctioned by the Local Government. Such sanction may be either

(1) of the record of rights, or

(2) of the assessment, or

(3) of the record of rights and of the assessment.

The Local Government, on the report of the Financial Commis-

sioner that the operations of the settlement are complete, may, previous to sanction, direct that the record of rights be handed over to the Deputy Commissioner of the district, and that the special jurisdiction conferred on any officer under Section 21 or 22 of the Punjáb Courts Act, 1865, shall cease, and that the suits pending in the Courts of any such officers, or appeals from or applications for the review of, the judgments of such officers, be transferred to the ordinary Civil Courts, or to the Court of any officer appointed by the Local Government for the purpose of disposing of such suits, appeals or applications.

Revision of record of rights.

XVIII. The assessment of record of rights may be revised if the Local Government so directs, at any time before they are sanctioned respectively.

Time and manner of revision.

XIX. When a record of rights made in any district or other local area at a regular settlement has been sanctioned, it shall not be revised until such district or local area is again put under settlement, nor shall it at such subsequent settlement be revised otherwise than by,

(*a*) making entries in accordance with facts which have occurred since the date of the abstract specified in Clause 6 of Section 14;

(*b*) making such alterations of the record as are agreed to by all the parties interested therein, or are supported by a judicial decision;

(*c*) making new maps, surveys or measurement, when the Local Government so directs, and amending such of the documents of the record of rights as depend thereon, so as to accord with such new maps, surveys or measurement; but not so as to alter any statement as to the share or holding or status of any person, except in the cases mentioned in clauses (*a*) and (*b*) of this section.

Suit for declaration that an entry is incorrect.

XX. Any person who considers that he is aggrieved as to any right of which he is in possession, by any entry made in a record of rights, may, after such record of rights has been sanctioned, bring a suit in a Civil Court for a declaration that such entry is incorrect, and that a different entry ought to have been made. The Government and every person interested in such entry shall be made defendants in every such suit.

Effect of decree.

A decree obtained in such suit shall be of the same effect as if the entry which it declares to be correct had been made originally in the record of rights.

The provisions of this section shall not apply to any entry having the force of an agreement under Section 2 of the Punjáb Tenancy Act, 1868, as amended by this Act.

Amendment of Section 2, Act XXVIII. of 1868.

XXI. Instead of the last clause of Section 2 of the Punjáb Tenancy Act, 1868, the following shall be read:—"All entries in such record, made previously to the passing of the Punjáb Land-Revenue Act, 1871, in respect of matters comprised in Chapters III., IV., V., and VI., of this Act, shall, when attested. by the proper officer, be deemed to be agreements within the meaning of this section."

Erection and repair of boundary-marks.

XXII. Any Revenue Officer, and, in a district under settlement any Settlement Officer, may, by a notice in writing, require the persons liable for the revenue of any

village, estate or field to erect or repair boundary-marks sufficient for defining the limits of such village, estate or field; and if such boundary-marks are not so constructed or repaired within a period to be specified in the notice, such Revenue or Settlement Officer may cause boundary-marks to be so erected or repaired; and the cost of such erection or repair shall be recoverable from the persons liable for the revenue of such village, estate or field, as if it were an arrear of land-revenue due in respect of such village, estate or field.

Power to issue commissions to take evidence, or for local investigations, and to refer to arbitration.

XXIII. Settlement Officers may issue commissions to take evidence, or for local investigations, according to the provisions of the Code of Civil Procedure, and may, if empowered by the Local Government, refer any matter in dispute to arbitrators, whether with or without the consent of parties. The arbitrators to be appointed under this section shall exercise such powers, proceed in such manner, and their finding shall be liable to such appeal, as the Local Government directs.

Power to compel attendance of witnesses.

XXIV. Settlement Officers shall have the same power to compel the attendance of all persons whom they believe to be able to give them information as to the matters into which they are empowered to inquire under the notification mentioned in Section 11, as the Judges of Civil Courts have to procure the attendance of witnesses under the Code of Civil Procedure; and all persons who appear before such officers are bound to state the truth upon all such matters, and to produce such documents and other things as may be required of them.

Power to enter lands to make surveys, &c.

XXV. Settlement Officers and the servants and workmen employed by them, shall have the powers specified in the Land Acquisition Act (X. of 1870), Section 4, for the purpose of making such plans and surveys as are directed by the said notification, and of collecting such information as to the quality and produce of the land as may be necessary to enable them to assess the revenue to be paid thereon.

What to be deemed to belong to owners of estates.

XXVI. In regular settlements to be made hereafter, unless it is otherwise expressly provided in the records of the settlement, all forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce and other accessory interests in land shall be deemed to belong to the owners of the estate within the boundaries of which they are at such settlement included.

Settlement of waste lands in excess.

XXVII. When the waste land belonging to or adjoining an estate is so extensive as, in the opinion of the Deputy Commissioner or officer in charge of a settlement, to exceed the requirements of the owners of such estate with reference to pasturage or other useful purpose, such Deputy Commissioner or officer may at any time, with the sanction of the Financial Commissioner, make a separate settlement of the waste land which he considers to be so in excess, and shall offer such waste land at such assessment, for such term and on such conditions as he thinks fit to the owners of the estate to which it belongs, and, if they refuse such offer, to the owners of any estate to which such waste land adjoins; and if they refuse such offer, to any other person:

Allowance to owner refusing settlement.

Provided that, where the owners of the estate to which such waste land belongs refuse such offer, the Deputy Commissioner shall assign to them an annual allowance not less than five and not more than ten per cent. on the nett proceeds realized by Government from such waste lands.

Presumption of ownership of forests, waste lands, &c., in regular settlements made before passing of Act.

XXVIII. In regular settlements made before the passing of this Act, unless it is otherwise expressly provided in the records of such settlement, all forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce and other accessory interests in land, whether included within the boundaries of an estate or not, shall be presumed to belong to the Government.

This presumption may be defeated by showing, from the assessment of the estate, that any such forest, unclaimed, unoccupied, deserted or waste land, quarry, spontaneous produce or other accessory interest was taken into account in such assessment; in which case any thing which was so taken into account shall be presumed to belong to the owners of the estate so assessed.

The question whether any such forest, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce or other accessory interests were not taken into consideration in determining the amount of revenue to be assessed, shall be determined by a consideration of the reports made by the Settlement Officer to Government at the time of settlement, or, if the report is silent, by a comparison between the rates assessed in villages in which such forests, unclaimed, unoccupied, deserted or waste lands, quarries, spontaneous produce or other accessory interests did, and villages of similar character in which they did not, exist.

Mines to be deemed to belong to Government.

XXIX. Mines of metal or coal and gold-washings shall in every case be deemed to be the property of Government. But if Government works or causes to be worked any such mine, compensation for damage to surface of the soil shall be made to the owner of such surface.

Such compensation may be claimed, and shall be ascertained and awarded, in accordance with the provisions of Act X. of 1870.

CHAPTER III.

Engagements for Payment of Land-Revenue.

With whom settlement is to be made.

XXX. When the land in respect of which the settlement is to be made is owned by one person, the settlement shall be offered to that person.

When such land is owned by several persons, it shall be offered to such persons through their representatives.

When there are two classes of owners, superior and inferior, the settlement may be offered to either class, according as the Financial Commissioner directs.

If one of such classes refuses the offer of the settlement, it shall be offered to the other class.

Settlement Officer to report the amount of assessment and how computed.

XXXI. When the officer in charge of the settlement has satisfied himself as to the amount at which an estate should be assessed, he shall submit a report of such amount and of the grounds on which it is computed to the Commissioner; and the Commissioner shall forward such report, together with his own opinion thereon, to the Financial Commissioner.

Financial Commissioner to give instructions as to terms.

XXXII. The Financial Commissioner shall give such instructions as he thinks fit to the officer in charge of the settlement as to the terms on which the persons with whom the settlement is to be made shall be permitted to offer to engage for the revenue, and such officer shall inform such persons that they may make an offer on such terms, but that Government is not bound to accept such offer.

Effect of agreement to offer.

XXXIII. If the persons with whom the settlement is to be made agree to make such offer, they shall become liable, from the date of such agreement, to the payment of the amount of revenue mentioned in the said offer; but the Local Government may refuse to accept such offer, and may require any officer whom it may appoint for that purpose to offer the land to such persons at any other rate of revenue, or for any other term, or generally on any other conditions than those offered.

Offer may be refused.

Offer to be binding until refusal is notified.

XXXIV. Until such refusal and offer of new terms on the part of the Government are notified to the persons with whom the settlement is to be made, they shall be bound by, and shall continue to hold their lands on the terms of, the offer permitted by the Financial Commissioner to be made.

Liability of landowners in an estate.

XXXV. All the owners of land in an estate shall be jointly and severally liable for the payment of the whole amount of revenue assessed upon it, and to all the processes hereinafter prescribed for the collection of arrears of revenue.

If Headmen accept, village community is bound.

XXXVI. If all the Village-Headmen in a village community agree to make such offer, such village community shall be bound by such agreement.

Effect of refusal to offer.

XXXVII. If the persons with whom the settlement is to be made neglect or refuse to make such offer as is mentioned in Section 32, or to accept any offer made to them under Section 33, the officer in charge of the settlement may exclude such persons from their estate, and may make a settlement of such estate with any other persons, or may take the estate under direct management. The period of such exclusion shall, in no case, exceed the term of the settlement.

Allowance to persons excluded.

Any persons who are so excluded shall be entitled to an allowance from Government, the amount of which shall be fixed by the Financial Commissioner, but which shall not be less than five per cent., nor more than ten per cent. on the nett amount realized by Government from the land from which such persons are excluded.

Land to be held on terms of expired settlement until new one is made.

XXXVIII. If the term for which any settlement has been made expires before a new settlement is made, all persons who continue to occupy the land after the expiration of such term shall hold it upon the conditions of the expired settlement until a new one is made.

CHAPTER IV.

MAINTENANCE OF THE RECORD OF RIGHTS.

Recording of facts affecting record of rights.

XXXIX. When a record of rights has been handed to the Deputy Commissioner under the provisions of Section 17, he shall, from time to time, record or cause to be recorded, all facts affecting any matter stated in the record of rights which occur subsequent to the handing to him of the record of rights.

Rules for such recording.

XL. The Local Government shall make rules as to the facts to be so recorded and the manner in which, the persons by whom, and the occasions on which, such facts are to be recorded, and as to the fees which are to be paid in respect of recording them.

Rules for settlement of lands of which revenue is resumed, &c.

XLI. The Local Government shall, from time to time, make rules as to the procedure to be followed in making or modifying settlements of lands of which the revenue has been assigned and is resumed by Government, lands affected by alluvion, diluvion or other river action, waste lands settled under the provisions of Section 27, and other isolated portions of land.

Such rules may provide for any matters which may be provided for in a notification of settlement under Section 11, and the officers empowered by such rules to act as Settlement Officers shall have all the powers hereinbefore given to Settlement Officers.

CHAPTER V.

COLLECTION OF LAND-REVENUE.

Local Government may make rules as to payment of revenue.

XLII. The Local Government may, from time to time, make rules as to the instalments by which, and the places and times at which, the revenue payable in respect of any land shall be paid, and for the mode in which notice as to such instalments, places and times shall be given to the persons concerned: and, until the Local Government shall otherwise direct, the practice as to these matters now observed shall continue to be observed.

Revenue to be paid at place and on day appointed.

It is the duty of every person who has engaged to pay any portion of land-revenue to pay the same at the place, and before sunset of the day, appointed by the Local Government in that behalf.

Effect of non-payment.

Any sum not so paid becomes thereupon an arrear of land-revenne, and the person who owes such arrear becomes a defaulter.

Procedure for recovery of arrears. Warrants.

XLIII. When an arrear of land-revenue has become due, the Deputy Commissioner may issue a warrant ordering the defaulter to pay the amount within a time therein stated, and empowering an officer to be named in the warrant, in default of the arrear being so paid, to bring the defaulter to the tahsil and at a date to be named in the warrant.

Detention at head quarters of Deputy Commissioner.

If the arrear be not paid, and if, on the day named in the warrant, the defaulter does not show satisfactory cause for extending the time for payment of the arrear, the Deputy Commissioner may direct such person to be conveyed to his head quarters and there kept under personal restraint for ten days.

The Deputy Commissioner may empower any Tahsildar of his district to exercise the powers conferred by the two preceding Clauses of this Section.

Imprisonment in civil jail;

If the arrear be not paid within ten days, and no good reason for the delay is shown, the Deputy Commissioner may issue an order to the Jailor of the civil jail of the district, directing him to confine the defaulter therein as a civil prisoner until the arrear is paid, or until the expiration of such period, not exceeding one year from the date of the order, as the Deputy Commissioner thinks fit; and such person shall be confined according to the terms of such order;

Distraint and sale of moveables.

and he may order the distraint and sale of the moveable property of any such person, with the exception of instruments of husbandry, cattle actually employed in agriculture, and the tools of artisans;

or he may order either of the above processes to be enforced.

Conduct of sale.

Every sale ordered under this section shall be conducted according to the law in force for the time being for the sale of moveable property under the decree of a Civil Court.

When defaulter may be discharged.

Wherever any of the processes provided in Sections 46, 47, 49 or 52 has been enforced in respect of an arrear, the defaulter on account of whose arrear such process has been enforced shall, if he has been imprisoned under this section, be forthwith discharged.

When Civil Court may interfere.

XLIV. No proceeding had, or process enforced, under Section 43, shall be liable to be contested in any Civil Court, unless the person aggrieved thereby denies that the amount of revenue claimed was due, and tenders security for any arrear in respect of which the process was issued, or which is due or is likely to become due before the termination of the suit, and for any costs arising out of the proceedings in the Civil Court; in which case the Court shall issue a precept to the Deputy Commissioner to discharge the prisoner from custody: but the Court shall in no case interfere with any such distress and sale of moveable property as aforesaid.

Party proceeded against may pay under protest and sue for recovery.

XLV. If any such process as is mentioned in Section 43 is taken against any person, such person may pay the amount claimed under protest, and, upon such payment, such process shall be withdrawn, and the party against whom it was issued may sue the Government in any Civil Court for the amount so paid.

Land may be attached and taken under direct management.

XLVI. When an arrear of land-revenue has become due, the Deputy Commissioner may, in addition to or instead of the processes hereinbefore specified, cause the land in respect of which the arrear has become due to be attached and taken under the direct management of any agent whom he appoints for that purpose. The agent so appointed shall stand for all purposes in the position of the person on account of whose default the land was attached, and shall be bound by the engagements or other relations which existed between such person and any subordinate proprietors or tenants with rights of occupancy, and shall be entitled to manage the land attached, and to receive all rents and profits accruing on such land, to the exclusion of the person on account of whose default the land was attached, until the arrears of land-revenue due therefrom have been satisfied, or until the Deputy Commissioner directs him to restore the person whose interest has been attached to the management thereof.

Powers and obligations of agent.

Application of surplus profits.

All surplus profits of the land attached, beyond the cost of such attachment and direct management, shall go to defraying the arrear and any instalment of land-revenue that may become due during such management.

Termination of management.

And no such management shall continue after the arrear of revenue on account of which it was ordered, together with any such instalment, has been satisfied.

Transfer of share of defaulter to solvent co-sharers.

XLVII. If an arrear of land-revenue has accrued in respect of the share of any member of a village community, such community or any member thereof may tender payment of such arrear, or may offer to pay such arrear by instalments; and if such tender be made, or if the Deputy Commissioner considers such offer satisfactory, the Deputy Commissioner may transfer the share of the defaulting member to such community or member, on such terms as he considers equitable, either permanently or until such arrear is paid. If more such members than one make such tender or offer, the one who is most nearly related to the defaulter, or who in case of sale would have a right of pre-emption, shall be preferred.

When transfer of share is to become absolute

XLVIII. If such share is so transferred until the arrear is repaid, and if the arrear is not repaid within twelve years, the community or member to whom the share has been so transferred may apply to the Deputy Commissioner to publish a notification that, if the arrear is not paid within one year from the date thereof, such transfer will become absolute; and the Deputy Commissioner may publish such notification accordingly; and if the arrear is not paid before the expiration of one year from the date of the notification, the transfer to such community or member shall become absolute accordingly.

Sections 47 and 48 to apply to mortgagees and other incumbrancers.

XLIX. The provisions contained in the two preceding sections in favour of members of a village community shall extend to mortgagees and other persons having incumbrances on the land on which the arrear is due, in case neither the community nor any member thereof take action under the said provisions.

Processes not to affect joint and several liability of community.

L. The procedure prescribed in the three preceding sections shall not affect the joint and several liability of the members of the village community in which it is enforced.

Notice to cancel settlement.

LI. When any arrear of land-revenue remains unpaid for more than one month, the Deputy Commissioner, in addition to or instead of any of the processes hereinbefore provided, may, with the previous consent of the Financial Commissioner, cause to be published upon the land in respect of which such arrear is due a notification, that unless the arrear is paid within fifteen days from the date thereof, the settlement made in respect of the estate on which such arrear is due, or in respect of any portion of such estate, and all contracts made by the defaulter or any person through whom he claims, affecting such estate or portion of an estate, will be cancelled.

Service of notice.

A copy of such notification shall be stuck up at the tahsil, and be served on each of the Village Headmen of the village in which the arrear has accrued.

On cancelment of settlement, land may be managed by agent or let in farm.

LII. If such arrear of land-revenue is not paid within fifteen days from the date of the notification, the said settlement and all contracts made by the defaulter or any person through whom he claims, affecting the land such state or portion of an estate, shall be cancelled; and the Deputy Commissioner, with the previous consent of the Financial Commissioner, may either appoint an agent to manage the land, or may let the land in farm to any person who may be willing to accept the same, for such period and on such conditions as he thinks fit; and such farmer may, during such period, either occupy the land himself or sub-let the same to such persons on such terms as he may think proper:

Lease to be first offered to owners of land.

Provided that, in every case in which the provisions of this section are enforced, no lease of any of the lands mentioned in the notification shall be made to any other person till it has been first offered to the owners of such land: and such owners shall, if they accept the offer of the lease, be deemed, in the absence of express agreement to the contrary, to hold as tenants-at-will.

A cancelment under this section shall not affect any person, other than the defaulter or his representatives, having an interest in such state which existed at the date of the last previous settlement.

Persons dispossessed to have allowance.

LIII. Whenever any person is dispossessed of any beneficial interest in land by any such attachment, direct management, transfer or cancelment as is provided in this chapter, he shall be entitled to an allowance in respect thereof such as is provided in Section 37.

Farmer of share in village community, when not liable for revenue of other shares.

LIV. If the share of any member of a village community is let to farm, under the provisions hereinbefore contained, to any person other than a member of the village community, such person shall not, during the term of his farm, be liable for the land-revenue due in respect of the other shares in the village community; and if such person is a member of the village community, he

may, if the Financial Commissioner so direct, be freed from joint and several liability in respect of such share.

Attachment of interest of defaulter in other land.

LV. When an arrear of revenue cannot be recovered by any of the processes hereinbefore described, the Deputy Commissioner may, with the previous sanction of the Financial Commissioner, order the attachment, under Section 46, of any beneficial interest to which the defaulter is entitled in any other land, and may apply the provisions of that section to such land until the arrear is satisfied.

What may be sold.

LVI. If the Deputy Commissioner is of opinion that an arrear of land-revenue cannot be recovered by any of the means hereinbefore mentioned, he may, with the previous sanction of the Financial Commissioner, sell by auction—

any land in respect of which such arrear has accrued, or any portion or share of such land ; or

any land or houses, or interest in land or houses, other than that in respect of which such arrear has accrued, to which the defaulter is entitled :

When houses or land may not be sold.

But no land or house shall be liable to be sold under this section,

if the land is subject to the Court of Wards, or is so circumstanced that the Court of Wards might exercise jurisdiction over it ; or

if the land is under attachment under this Act, and the arrear has accrued during such attachment ; or

if the land is held in farm under this Act by a person who is not a member of the village community within whose estate such land is situated, and if the arrear has accrued during the term for which it is so held in farm.

Land to be sold free of incumbrances.

LVII. Land or other property sold under the last preceding section shall be sold free of all incumbrances, and all contracts made by any person in respect of such land or property shall become void as against the purchaser at the auction-sale.

Procedure to be followed in sales.

LVIII. In all sales under Section 56, the procedure provided by Sections 249, 253 to 260, inclusive, of the Code of Civil Procedure, shall be followed, except in the following particulars :—

(1.) The defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and upon such payment the sale shall be stayed :

(2.) The proclamation of intended sale provided in the said Section 249 shall declare that the land is to be sold free of every incumbrance, except the land-revenue and other legal charges to which it may be, from time to time, assessed :

(3.) The appeal provided in Section 257 of the said Code shall lie to the Commissioner of the division, and an appeal from the Commissioner's order shall lie to the Financial Commissioner :

(4.) The certificate provided in Section 259 of the said Code shall state that the purchaser has purchased the land to which the certificate refers free of every incumbrance, except the land-revenue and other legal charges to which it may be, from time to time, assessed.

Suit to set aside sale.

LIX. A suit may be brought in a Civil Court to set aside any such sale on any ground on which a sale under the Code of Civil Procedure might be set aside; but not on any of the following grounds:—

(1) that a tender of the arrear of land-revenue on account of which such sale took place was made on or after the day named for the sale in the proclamation of intended sale;

(2) that the defaulter had any claim against the Government;

(3) that the revenue due from the defaulter had been remitted, unless the Local Government admits it;

(4) that money belonging to the defaulter, and sufficient to satisfy the whole or any part of the arrear, was in any Government treasury, unless the defaulter had an exclusive and undisputed property therein, and unless, after the application by the defaulter within the time specified in the notification of intended sale that such money should be applied to the satisfaction of the arrear, the Deputy Commissioner neglected or refused upon insufficient grounds so to apply it; or

where land is sold for an arrear of revenue due in respect thereof,

(5) that the land sold does not belong to the defaulter.

Application of proceeds of sale.

LX. The proceeds of any sale under Section 56 shall be applied as follows:—

(1) to the payment of the arrear due;

(2) to the payment of any other arrear of land-revenue due by the same person;

(3) the surplus shall be paid to the person whose land has been sold; or, if the land sold were held in shares, then to the co-shares collectively, or according to the amount of their respective interests, at the discretion of the Deputy Commissioner.

Rules as to payment of surplus to creditors.

LXI. Such surplus shall not be payable to any creditor of the person whose land has been sold on demand of such creditor, nor shall it be retained in the land-revenue treasury, except under precept of a Civil Court and in satisfaction of a decree of such Court; and, whenever such surplus has been paid to the creditors of the owner of any land under a precept of such Court, and the sale of such land is afterwards annulled, such owner shall not be restored to possession, until the amount so paid is returned by him with such interest as the Deputy Commissioner directs.

Purchaser's liability.

LXII. The person named in the certificate of title as purchaser shall be liable for all instalments of land-revenue which may fall due subsequently to the date of the certificate.

Application of Act to existing arrears.

LXIII. The provisions of this chapter shall apply to all arrears of land-revenue due at the passing of this Act.

CHAPTER VI.

MISCELLANEOUS.

Powers for recovery of revenue other than land-revenue.

LXIV. Deputy Commissioners may exercise all or any of the powers hereinbefore provided for the recovery of land-revenue, for the recovery of any other revenue due from any person to the Government.

Limitation of jurisdiction of Civil Court.

LXV. No Civil Court shall take cognizance of any of the following matters :—

(1) claims against Government brought by any person in respect of any matter connected with the offices mentioned in Section 6;

(2) claims against one another, as to partition, by persons who do not contest the correctness of the entries in the record of rights;

(3) the formation of the record of rights, the preparation, signing and attestation of the documents contained therein, or the notification of an intended settlement;

(4) any matter for which provision is made in Section 27;

(5) the right of any person or persons to be settled with or the validity of any engagement with Government for the payment of land-revenue;

(6) claims arising out of, or connected with the collection of land-revenue, or any process enforced on account of neglect or refusal to engage, or on account of an arrear of land-revenue, except where it is otherwise expressly provided in this Act.

Appeal.

In all the above cases an appeal shall lie to the Deputy Commissioner from all orders and decisions of any officer subordinate to him; and to the Commissioner from all orders and decisions original or appellate, of the Deputy Commissioner; and to the Financial Commissioner from all orders and decisions of the Commissioner.

Power to call for record of proceedings.

The Financial Commissioner shall have power to call for the record of any proceeding had under this section by any Revenue or Settlement officer, and to pass such order thereon as he thinks fit.

Conduct of proceedings.

Such proceedings shall be conducted according to the rules prescribed by the Local Government.

Fees.

Such fees shall be chargeable in respect of proceedings under this section, whether original or appellate, as the Local Government, from time to time, with the sanction of Governor-General in Council, directs.

Power to make rules for purposes of Act.

LXVI. The Local Government, may, with the previous sanction of the Governor-General in Council, make and issue, and may, with the like sanction, from time to time, alter rules in accordance with the provisions of this Act to regulate and specify—

(1) the proceedings of any officer or other person who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under this Act and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place and manner at or in which any thing for the doing of which provision is made in this Act shall be done;

(4) the amount of any fine to be imposed or charge to be made under the provisions of this Act;

(5) the form and contents of reports to be furnished by settlement officers, and the period within which such reports shall be so furnished;

(6) and generally to carry out the provisions of this Act.

Such rules shall be published in the official Gazette and shall have the force of law.

Periodical re-publication of rules.

LXVII. All rules having the force of law made under this Act shall, with the previous sanction of the Government of India, be re-published once at least every year, and, upon such re-publication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such re-publication all previous rules shall be repealed.

Operaion of existing rules.

All rules heretofore prescribed by competent authority, in respect of any of the matters for which rules may be made under this Act, shall be deemed to be in force for six months after this Act comes into force, unless any rules on the same subject are previously issued by the Local Government.

ACT No. I. OF 1872.

THE INDIAN EVIDENCE ACT, 1872.

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RELEVANCY OF FACTS.

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THE INDIAN EVIDENCE ACT, 1872.

Preamble. Whereas it is expedient to consolidate, define, and amend the Law of Evidence; It is hereby enacted as follows:—

PART I.

RELEVANCY OF FACTS.

CHAPTER I.—PRELIMINARY.

Short title. I. This Act may be called 'The Indian Evidence Act, 1872:'

Extent. It extends to the whole of British India, and applies to all judicial proceedings in or before any Court, including Courts Martial, but not to affidavits presented to any Court or Officer, nor to proceedings before an arbitrator;

Commencement of Act. and it shall come into force on the first day of September, 1872:

Repeal of enactments. II. On and from that day the following laws shall be repealed:—

(1.)—All rules of evidence not contained in any Statute, Act or Regulation in force in any part of British India:

(2.)—All such rules, laws and regulations as have acquired the force of Law under the twenty-fifth section of 'The Indian Councils' Act, 1861,' in so far as they relate to any matter herein provided for; and,

(3.)—The enactments mentioned in the schedule hereto, to the extent specified in the third column of the said schedule.

But nothing herein contained shall be deemed to affect any provision of any Statute, Act or Regulation in force in any part of British India and not hereby expressly repealed.

Interpretation-clause. III. In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:—

'Court.' 'Court' includes all judges and Magistrates, and all persons, except arbitrators, legally authorized to take evidence.

'Fact.' 'Fact' means and includes.—

(1) any thing, state of things, or relation of things, capable of being perceived by the senses;

(2) any mental condition of which any person is conscious.

Illustrations.

(*a.*) That there are certain objects arranged in a certain order in a certain place, is a fact.

(*b.*) That a man heard or saw something is a fact.

(*c*) That a man said certain words is a fact.

(*d.*) That a man holds a certain opinion, has a certain intention, acts in good faith, or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(*e.*) That a man has a certain reputation is a fact.

'Relevant.' One fact is said to be 'relevant' to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts.

'Facts in issue.' The expression 'Facts in issue' means and includes—

any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature, or extent of any right, liability, or disability, asserted or denied in any suit or proceeding necessarily follows.

Explanation.—Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue, is a fact in issue.

Illustrations.

A is accused of the murder of B.

At his trial the following facts may be in issue :—

That A caused B's death ;

That A intended to cause B's death ;

That A had received grave and sudden provocation from B ;

That A at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

'Document.' 'Document' means any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

Illustrations.

A writing is a document.

Words printed, lithographed or photographed are documents.

A map or plan is a document.

An inscription on a metal plate or stone is a document.

A caricature is a document.

'Evidence.' 'Evidence' means and includes—

(1) all statements which the Court permits or requires to be made before it by witnessess, in relation to matters of fact under inquiry;

such statements are called oral evidence :

(2) all documents produced for the inspection of the Court;

such documents are called documentary evidence.

'Proved.' A fact is said to be proved, when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

A fact is said to be disproved, when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case to act upon the supposition that it does not exist.

'Disproved.'

A fact is said not to be proved, when it is neither proved nor disproved.

'Not proved.'

IV. Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.

'May presume.'

Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

'Shall presume.'

When one fact is declared by this Act to be conclusive proof of another, the Court shall on proof of the one fact regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

'Conclusive proof.'

Chapter II.—Of the Relevancy of Facts.

V. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue, and of such other facts as are hereinafter declared to be relevant, and of no others.

Evidence may be given of facts in issue and relevant facts.

Explanation.—This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

Illustrations.

(*a.*) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A's trial the following facts are in issue :—

A's beating B with the club ;
A's causing B's death by such beating ;
A's intention to cause B's death.

(*b.*) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure.

VI. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

Relevancy of facts forming part of same transaction.

Illustrations.

(*a.*) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.

(*b.*) A is accused of waging war against the Queen by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.

(*c.*) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself.

(*d.*) The question is whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.

Facts which are occasion, cause, or effect of facts in issue.

VII. Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Illustrations.

(*a.*) The question is, whether A robbed B.

The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons, are relevant.

(*b.*) The question is, whether A murdered B.

Marks on the ground, produced by a struggle at or near the place where the murder was committed. are relevant facts.

(*c.*) The question is, whether A poisoned B.

The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

Motive, preparation and previous or subsequent conduct.

VIII. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Explanation 1.—The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements: but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2.—When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

Illustrations.

(*a.*) A is tried for the murder of B,

The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.

(*b.*) A sues B upon a bond for the payment of money. B denies the making of the bond.

The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.

(*c.*) A is tried for the murder of B by poison.

The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

(*d.*) The question is whether a certain document is the will of A.

The facts that, not long before the date of the alleged will, A made inquiry into matters to which the provisons of the alleged will relate, that he consulted vakeels in reference to making the will, and that he caused drafts of other wills to be prepared, of which he did not apptove, are relevant.

(*e.*) A is accused of a crime.

The facts that, either before, or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance

favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

(*f.*) The question is, whether A robbed B.

The facts that, after B was robbed, C said in A's presence—'the police are coming to look for the man who robbed, B'—and that immediately afterwards A ran away, are relevant.

(*g.*) The question is, whether A owes B rupees 10,000.

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing—'I advise you not to trust A, for he owes B 10,000 rupees,'—and that A went away without making any answer, are relevant facts.

(*h.*) The question is, whether A committed a crime.

The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant.

(*i*) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

(*j.*) The question is, whether A was ravished.

The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which and the terms in which the complaint was made, are relevant.

The fact that, without making a complaint she said that she had been ravished is not relevant as conduct under this section, though it may be relevant

as a dying declaration under Section 32, clause (1), or

as corroborative evidence under Section 157.

(*k.*) The question is whether A was robbed.

The fact that, soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint is not relevant as conduct under this section, though it may be relevant

as a dying declaration under Section 32, clause 1, or

as corroborative evidence under Section 157.

Facts necessary to explain or introduce relevant facts.

IX. Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of any thing or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Illustrations.

(*a.*) The question is whether a given document is the will of A.

The state of A's property and of his family at the date of the alleged will may be relevant facts.

(*b.*) A sues B for a libel imputing disgraceful conduct to A. B affirms that the matter alleged to be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(*c.*) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant, under Section 8, as conduct subsequent to and affected by facts in issue.

The fact that, at the time when he left home, he had sudden and urgent business at the place to which he went, is relevant as tending to explain the fact that he left home suddenly.

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

(*d.*) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A—'I am leaving you because B has made me a better offer.' This statement is a relevant fact, as explanatory of C's conduct, which is relevant as a fact in issue.

(*e.*) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says, as he delivers it—'A says you are to hide this.' B's statement is relevant, as explanatory of a fact which is part of the transaction.

(*f.*) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant, as explanatory of the nature of the transaction.

Things said or done by conspirator in reference to common design.

X. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done, or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

Illustration.

(*a.*) Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Queen.

The facts, that B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D persuaded persons to join the conspiracy in Bombay, E published writings advocating the object in view at Agra, and F transmitted from Delhi to G at Cabul the money which C had collected at Calcutta, and the contents of a letter, written by H, giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

When facts not otherwise relevant become relevant.

XI. Facts not otherwise relevant are relevant—

(1) if they are inconsistent with any fact in issue or relevant fact;

(2) if by themselves, or in connection with other facts, they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Illustrations.

(*a.*) The question is, whether A committed a crime at Calcutta on a certain day. The fact that on that day A was at Lahore is relevant.

The fact that near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.

(*b.*) The question is, whether A committed a crime.

The circumstances are such that the crime must have been committed either by A, B, C, or D. Every fact, which shows that the crime could have been committed by no one else, and that it was not committed by either B, C, or D, is relevant.

In suits for damages, facts tending to enable Court to determine amount are relevant.

XII. In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded is relevant.

Facts relevant when right or custom is in question.

XIII. Where the question is as to the existence of any right or custom, the following facts are relevant :—

(*a.*) Any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted, or denied, or which was inconsistent with its existence.

(*b.*) Particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted, or departed from.

Illustration.

The question is, whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcileable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

Facts showing existence of state of mind, or of body or bodily feeling.

XIV. Facts showing the existence of any state of mind—such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling—are relevant, when the existence of any such estat of mind or body or bodily feeling is in issue or relevant.

Explanation.—A fact, relevant as showing the existence of a relevant state of mind, must show that it exists, not generally, but in reference to the particular matter in question.

Illustrations.

(*a.*) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.

The fact that at the same time he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.

(*b.*) A is accused of fraudulently delivering to another person a piece of counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin, is relevant.

(*c.*) A sues B for damage done by a dog of B's, which B knew to be ferocious.

The facts, that the dog had previously bitten X, Y, and Z, and that they had made complaints to B, are relevant.

(*d.*) The question is, whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.

The fact that A had accepted other bills drawn in the same manner, before they could have been transmitted to him by the payee, if the payee had been a real person, is relevant, as showing that A knew that the payee was a fictitious person.

(*e.*) A is accused of defaming B by publishing an imputation intended to harm the reputation of B.

The fact of previous publications by A respecting B, showing ill-will on the part of A towards B, is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts, that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.

(*f.*) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that, at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

(*g.*) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.

A's defence is that B's contract was with C.

The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

(*h.*) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.

The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.

(*i.*) A is charged with shooting at B with intent to kill him. In order to show A's intent, the fact of A's having previously shot at B may be proved.

(*j.*) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.

(*k.*) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other, shortly before or after the alleged cruelty, are relevant facts.

(*l.*) The question is, whether A's death was caused by poison.

Statements made by A during his illness as to his symptons, are relevant facts.

(*m.*) The question is, what was the state of A's health at the time when an assurance on his life was effected.

Statements, made by A as to the state of his health at or near the time in question, are relevant facts.

(*n.*) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage, is revelant.

The fact that B was habitually negligent about the carriages which he let to hire, is irrelevant.

(*o.*) A is tried for the murder of B by intentionally shooting him dead.

The fact that A, on other occasions, shot at B, is relevant, as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with intent to murder them, is irrelevant.

(*p.*) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime, is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class, is irrelevant.

Facts bearing on question whether act was accidental or intentional.

XV. When there is a question whether an act was accidental or intentional, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

Illustrations

(*a.*) A is accused of burning down his house in order to obtain money for which it is insured.

The facts, that A lived in several houses successively, each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.

(*b.*) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is, whether this false entry was accidental or intentional.

The facts, that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.

(*c.*) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D, and E, are relevant, as showing that the delivery to A was not accidental.

Existence of course of business when relevant.

XVI. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Illustrations.

(*a.*) The question is, whether a particular letter was despatched.

The facts, that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place, are relevant.

(*b.*) The question is, whether a particular letter reached A. The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

ADMISSIONS.

Admissions defined.

XVII. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.

Admission— by party to proceeding or his agent;

XVIII. Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions.

by suitor in representative character;

Statements made by parties to suits, suing or sued, in a representative character, are not admissions, unless they were made while the party making them held that character.

Statements made by—

by party interested in subject-matter;

(1) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or

by person from whom interest derived.

(2) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, are admissions if they are made during the continuance of the interest of the persons making the statements.

Admissions by persons whose position must be proved as against party to suit.

XIX. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

Illustration.

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

Admissions by persons expressly referred to by party to suit.

XX. Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute, are admissions.

Illustration.

The question is, whether a horse sold by A to B is sound.

A says to B—'Go and ask C, C knows all about it.' C's statement is an admission.

Relevancy of admissions against, or in behalf of, persons concerned.

XXI. Admissions are relevant, and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them, or by his representative in interest, except in the following cases:—

(1.)—An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under Section 32.

(2.)—An admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

(3.)—An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

Illustrations.

(*a.*) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(*b.*) A, the Captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business, showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties if he were dead, under Section 32, clause (2).

(*c.*) A is accused of a crime committed by him at Calcutta.

He produces a letter written by himself and dated at Lahore on that day and bearing the Lahore post-mark of that day.

The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under Section 32, clause (2).

(*d.*) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.

(*e.*) A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit.

He offers to prove that he asked a skilful person to examine the coin, as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

When oral admissions as to contents of documents are relevant.

XXII. Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

Admissions in civil cases when relevant.

XXIII. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation.—Nothing in this section shall be taken to exempt any barrister, pleader, attorney, or vakil from giving evidence of any matter of which he may be compelled to give evidence under Section 126.

Confession caused by inducement threat, or promise, irrelevant.

XXIV. A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat, or promise, having reference to the charge against the accused person, proceeding from a person in authority, and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Confession made to a Police Officer not to be used as evidence.

XXV. No confession made to a Police Officer shall be proved as against a person accused of any offence.

Confession made by accused while in custody of Police, not to be used as evidence.

XXVI. No confession made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

So much of statement or confession made by accused, as relates to fact thereby discovered, may be proved.

XXVII. Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence in the custody of a Police Officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

Confession made after removal of impression caused by inducement, threat, or promise, relevant.

XXVIII. If such a confession as is referred to in Section 24, is made after the impression caused by any such inducement, threat, or promise has, in the opinion of the Court, been fully removed, it is relevant.

Confession otherwise relevant, not to become irrelevant because of promise of secrecy, &c.

XXIX. If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

Consideration of proved confession affecting person making it and others jointly under trial for same offence.

XXX. When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons, affecting himself and some other of such persons, is proved, the Court may take into consideration such confession as against such other person, as well as against the person who makes such confession.

Illustrations.

(*a*) A and B are jointly tried for the murder of C. It is proved that A said,—"B and I murdered C." The Court may consider the effect of this confession as against B.

(*b*.) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said,—"A and I murdered C."

This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.

Admissions not conclusive proof, but may estop.

XXXI. Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES.

Cases in which statement of relevant fact by person who is dead or cannot be found, &c., is relevant.

XXXII. Statements, written or verbal, of relevant facts, made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:—

When it relates to cause of death;

(1.)—When the statement is made by a person, as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant, whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

or is made in course of business;

(2.)—When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities, or property of any kind; or of a document used in commerce written or signed by him, or of the date of a letter or other document usually dated, written, or signed by him.

or against interest of maker;

(3.)—When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

or gives opinion as to public right or custom, or matters of general interest;

(4.)—When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom, or matter had arisen.

or relates to existence of relationship;

(5.)—When the statement relates to the existence of any relationship between persons as to whose relationship the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

or is made in will or deed of deceased person;

(6.)—When the statement relates to the existence of any relationship beween persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait, or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

or relates to transaction mentioned in Section 13, clause (a);

(7.)—When the statement is contained in any deed, will, or other document which relates to any such transaction as is mentioned in Section 13, clause (*a*).

or is made by several persons, and expresses feelings relevant to matter in question.

(8.)—When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

Illustrations.

(*a*.) The question is, whether A was murdered by B; or,

A dies of injuries received in a transaction in the course of which she was ravished. The question is, whether she was ravished by B; or,

The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape, and the actionable wrong under consideration, are relevant facts.

(*b*.) The question is as to the date of A's birth.

An entry in the diary of a deceased surgeon, regularly kept in the course of business, stating that, on a given day, he attended A's mother and delivered her of a son, is a relevant fact.

(*c*.) The question is, whether A was in Calcutta on a given day.

A statement in the diary of a deceased solicitor, regularly kept in the course of business, that, on a given day, the solicitor attended A at a place mentioned in Calcutta for the purpose of conferring with him upon specified business, is a relevant fact.

(*d*.) The question is, whether a ship sailed from Bombay harbour on a given day.

A letter written by a deceased member of a merchant's firm, by which she was chartered, to their correspondents in London to whom the cargo was consigned, stating that the ship sailed on a given day from Bombay harbour, is a relevant fact.

(*e*.) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to A, saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.

(*f*.) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.

(*g*.) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day, is relevant.

(*h*.) The question is, what was the cause of the wreck of a ship.

A protest made by the captain, whose attendance cannot be procured, is a relevant fact.

(*i*.) The question is, whether a given road is a public way.

A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.

(*j*.) The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.

(*k*.) The question is, whether A, who is dead, was the father of B.

A statement by A that B was his son, is a relevant fact.

(*l*.) The question is, what was the date of the birth of A.

A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.

(*m.*) The question is, whether, and when, A and B were married.

An entry in a memorandum book by C, the deceased father of B, of his daughter's marriage with A at a given date, is a relevant fact.

(*n.*) A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is, as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.

Evidence in a former judicial proceeding when relevant.

XXXIII. Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; Provided that the proceeding was between the same parties or their representatives in interest;

that the adverse party in the first proceeding had the right and opportunity to cross-examine;

that the questions in issue were substantially the same in the first as in the second proceeding.

Explanation.—A criminal trial or enquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES.

Entries in books of account when relevant.

XXXIV. Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire; but such statements shall not alone be sufficient evidence to charge any person with liability.

Illustration.

A sues B for Rs. 1,000, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient without other evidence to prove the debt.

Entry in public record, made in performance of duty enjoined by law, when relevant.

XXXV. An entry in any public or other official book, register, or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record is kept, is itself a relevant fact.

Maps and plans when relevant

XXXVI. Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of Government, as to matters usually represented or stated in such maps, charts, or plans, are themselves relevant facts.

Statement as to fact of public nature contained in any Act or Notification of Government, when relevant.

XXXVII. When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of Parliament, or in any Act of the Governor-General of India in Council, or of the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in

Council of Bengal, or in a notification of the Government appearing in the *Gazette of India*, or in the Gazette of any local Government, or in any printed paper purporting to be the *London Gazette* or the Government Gazette of any colony or possession of the Queen, is a relevant fact.

Statements in law books.

XXXVIII. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

How much of a Statement is to be Proved.

What evidence to be given when statement forms part of a conversation, document, book, or series of letters or papers.

XXXIX. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book, or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

Judgments of Courts of Justice when Relevant.

Previous judgments relevant to bar a second suit or trial.

XL. The existence of any judgment, order, or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact, when the question is whether such Court ought to take cognizance of such suit, or to hold such trial.

Judgments in probate, &c., jurisdiction.

XLI. A final judgment, order, or decree of a competent Court, in the exercise of probate, matrimonial, admiralty, or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character or the title of any such person to any such thing, is relevant.

Such judgment, order, or decree is conclusive proof

that any legal character which it confers accrued at the time when such judgment, order, or decree came into operation;

that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment declares it to have accrued to that person;

that any legal character which it takes away from any such person ceased at the time from which such judgment declared that it had ceased or should cease;

and that any thing to which it declares any person to be so entitled was the property of that person at the time from which such judgment declares that it had been or should be his property.

Judgment, order, or decree between third parties, when relevant and when not.

XLII. Judgments, orders, or decrees, other than those mentioned in Section 41 are relevant, if they relate to matters of a public nature relevant to the enquiry; but such judgments, orders, or decrees are not conclusive proof of that which they state.

Illustration.

A sues B for trespass on his land. B alleges the existence of a public right of way over the land, which A denies.

The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land, in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.

What judgments, &c., not relevant.

XLIII. Judgments, orders, or decrees, other than those mentioned in Sections 40, 41, and 42, are irrelevant, unless the existence of such judgment, order, or decree is a fact in issue, or is relevant under some other provision of this Act.

Illustrations.

(*a*.) A and B separately sue C for a libel which reflects upon each of them. C in each case says, that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.

A obtains a decree against C for damages, on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.

(*b*.) A prosecutes B for adultery with C, A's wife.

B denies that C is A's wife, but the Court convicts B of adultery.

Afterwards C is prosecuted for bigamy in marrying B during A's lifetime. C says that she never was B's wife.

The judgment against B is irrelevant as against C.

(*c*.) A prosecutes B for stealing a cow from him. B is convicted.

A afterwards sues C for the cow which B had sold to him before his conviction. As between A and C, the judgment against B is irrelevant.

(*d*.) A has obtained a decree for the possession of land against B. C, B's son, murders A in consequence.

The existence of the judgment is relevant, as showing motive for a crime.

Fraud, collusion, and incompetency of Court may be proved.

XLIV. Any party to a suit or other proceeding may show that any judgment, order, or decree which is relevant under Sections 40, 41, or 42, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.

OPINIONS OF THIRD PERSONS WHEN RELEVANT.

Opinions of experts.

XLV. When the Court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting, the opinions upon that point, of persons specially skilled in such foreign law, science, or art, are relevant facts.

Such persons are called experts.

Illustrations.

(*a*.) The question is, whether the death of A was caused by poison.

The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.

(*b*.) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

(*c.*) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

Facts bearing upon opinions of experts.

XLVI. Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

Illustrations.

(*a.*) The question is, whether A was poisoned by a certain poison.

The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.

(*b.*) The question is, whether an obstruction to a harbour is caused by a certain sea wall.

The fact that other harbours similarly situated in other respects, but where there were no such sea walls, began to be obstructed at about the same time, is relevant.

Opinion as to handwriting.

XLVII. When the Court has to form an opinion as to the persons by whom any document was written or signed, the opinion of any person, acquainted with the handwriting of the person by whom it is supposed to be written or signed, that it was or was not written or signed by that person, is a relevant fact.

Explanation.—A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Illustration.

The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Calcutta who has written letters addressed to A, and received letters puporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinions of B, C, and D on the question whether the letter is in the handwriting of A, are relevant, though neither B, C, nor D ever saw A write.

Opinion as to existence of right or custom, when relevant.

XLVIII. When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.

Explanation.—The expression 'general custom or right' includes customs or rights common to any considerable class of persons.

Illustration.

The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.

Opinions as to usages, tenets, &c., when relevant.

XLIX. When the Court has to form an opinion as to—

the usages and tenets of any body of men or family,

the constitution and government of any religious or charitable foundation, or

the meaning of words or terms used in particular districts or by particular classes of people, or

the opinions of persons having special means of knowledge thereon, are relevant facts.

Opinion on relationship, when relevant.

L. When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Indian Divorce Act, or in prosecutions under Sections 494, 495, 497, or 498 of the Indian Penal Code.

Illustrations.

(*a*.) The question is, whether A and B were married.

The fact that they were usually received and treated by their friends as husband and wife, is relevant.

(*b*.) The question is whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.

Grounds of opinion, when relevant.

LI. Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

Illustration.

An expert may give an account of experiments performed by him for the purpose of forming his opinion.

CHARACTER WHEN RELEVANT.

In civil cases, character to prove conduct imputed, irrelevant.

LII. In civil cases, the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him, is irrelevant, except in so far as such character appears from facts otherwise relevant.

In criminal cases, previous good character relevant.

LIII. In criminal proceedings, the fact that the person accused is of a good character, is relevant.

Previous conviction in criminal trials relevant, but not previous bad character, except in reply.

LIV. In criminal proceedings, the fact that the accused person has been previously convicted of any offence is relevant; but the fact that he has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

Explanation.—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

Character as affecting damages.

LV. In civil cases, the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.

Explanation.—In Sections 52, 53, 54, and 55, the word 'character' includes both reputation and disposition; but evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

PART II.

On Proof.

Chapter III.—Facts which need not be Proved.

No evidence required of fact judicially noticed.

LVI. No fact of which the Court will take judicial notice need be proved.

Facts of which Court must take judicial notice.

LVII. The Court shall take judicial notice of the following facts:—

(1.)—All laws or rules having the force of law now or heretofore in force, or hereafter to be in force in any part of British India:

(2.)—All public Acts passed or hereafter to be passed by Parliament, and all local and personal Acts directed by Parliament to be judicially noticed:

(3.)—Articles of War for Her Majesty's Army or Navy:

(4.)—The course of proceeding of Parliament and of Councils for the purposes of making Laws and Regulations established under the Indian Councils' Act, or any other law for the time being relating thereto.

Explanation.—The word 'Parliament,' in clauses (2) and (4), includes—

1. The Parliament of the United Kingdom of Great Britain and Ireland;
2. The Parliament of Great Britain;
3. The Parliament of England;
4. The Parliament of Scotland; and
5. The Parliament of Ireland.

(5.)—The accession and the sign manual of the Sovereign for the time being of the United Kingdom of Great Britain and Ireland:

(6.)—All seals of which English Courts take judicial notice: the seals of all the Courts of British India, and of all Courts out of British India, established by the authority of the Governor-General or any local Government in Council: the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorized to use by any Act of Parliament, or other Act or Regulation having the force of law in British India:

(7.)—The accession to office, names, titles, functions, and signatures of the persons filling for the time being any public office in any part of British India, if the fact of their appointment to such office is notified in the *Gazette of India*, or in the official Gazette of any local Government:

(8.)—The existence, title, and national flag of every State or Sovereign recognized by the British Crown:

(9.)—The divisions of time, the geographical divisions of the world, and public festivals, fasts, and holidays notified in the official Gazette:

(10.)—The territories under the dominion of the British Crown:

(11.)—The commencement, continuance, and termination of hostilities between the British Crown and any other State or body of persons:

(12.)—The names of the members and officers of the Court, and of their deputies and subordinate officers and assistants, and also of

all officers acting in execution of its process, and of all advocates, attorneys, proctors, vakils, pleaders, and other persons authorized by law to appear or act before it:

(13.)—The rule of the road.

In all these cases, and also on all matters of public history, literature, science, or art, the Court may resort for its aid to appropriate books or documents of reference.

If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so, unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

Facts admitted.

LVIII. No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

CHAPTER IV.—OF ORAL EVIDENCE.

Proof of facts by oral evidence.

LIX. All facts, except the contents of documents, may be proved by oral evidence.

Oral evidence must be direct.

LX. Oral evidence must in all cases whatever be direct; That is to say—

If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

If it refers to an opinion, or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds;

Provided that the opinions of experts, expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises, if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable;

Provided, also, that if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

CHAPTER V.—OF DOCUMENTARY EVIDENCE.

Proof of contents of documents.

LXI. The contents of documents may be proved either by primary or by secondary evidence.

Primary evidence.

LXII. Primary evidence means the document itself produced for the inspection of the Court.

Explanation 1.—Where a document is executed in several parts, each part is primary evidence of the document:

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 2.—Where a number of documents are all made by one uniform process, as in the case of printing, lithography, or photography, each is primary evidence of the contents of the rest; but where they are all copies of a common original, they are not primary evidence of the contents of the original.

Illustration.

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

Secondary evidence.

LXIII. Secondary evidence means and includes—

(1.)—Certified copies given under the provisions hereinafter contained;

(2.)—Copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;

(3.)—Copies made from or compared with the original;

(4.)—Counterparts of documents as against the parties who did not execute them;

(5.)—Oral accounts of the contents of a document given by some person who has himself seen it.

Illustrations.

(*a.*) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.

(*b.*) A copy compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.

(*c.*) A copy transcribed from a copy, but afterwards compared with the original, is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.

(*d.*) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.

Proof of documents by primary evidence.

LXIV. Documents must be proved by primary evidence, except in the cases hereinafter mentioned.

Cases in which secondary evidence relating to documents may be given.

LXV. Secondary evidence may be given of the existence, condition, or contents of a document in the following cases:—

(*a.*) When the original is shown or appears to be in the possession or power

of the person against whom the document is sought to be proved, or

of any person out of reach of, or not subject to, the process of the Court, or

of any person legally bound to produce it,

and when, after the notice mentioned in Section 66, such person does not produce it;

(*b.*) When the existence, condition, or contents of the original have been proved to be admitted in writing by the person against whom it is proved, or by his representative in interest;

(*c.*) When the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;

(*d.*) When the original is of such a nature as not to be easily moveable;

(*e.*) When the original is a public document within the meaning of Section 74;

(*f.*) When the original is a document of which a certified copy is permitted by this Act, or by any other law in force in British India, to be given in evidence;

(*g.*) When the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.

In cases (*a*), (*c*), and (*d*), any secondary evidence of the contents of the document is admissible.

In case (*b*), the written admission is admissible.

In case (*e*) or (*f*), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (*g*), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

Rules as to notice to produce.

LXVI. Secondary evidence of the contents of the documents referred to in Section 65, Clause (*a*), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it.

(1.)—When the document to be proved is itself a notice;

(2.)—When, from the nature of the case, the adverse party must know that he will be required to produce it;

(3.)—When it appears or is proved that the adverse party has obtained possession of the original by fraud or force;

(4.)—When the adverse party or his agent has the original in Court;

(5.)—When the adverse party or his agent has admitted the loss of the document;

(6.)—When the person in possession of the document is out of reach of, or not subject to, the process of the Court.

Proof of signature and handwriting of person alleged to have signed or written document produced.

LXVII. If a document is alleged to be signed, or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

Proof of execution of document required by law to be attested.

LXVIII. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence.

Proof where no attesting witness found.

LXIX. If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.

Admission of execution by party to attested document.

LXX. The admission of a party to an attested document, of its execution by himself, shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

Proof when attesting witness denies the execution.

LXXI. If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

Proof of document not required by law to be attested.

LXXII. An attested document not required by law to be attested, may be proved as if it was unattested.

Comparison of handwritings.

LXXIII. In order to ascertain whether a signature, writing, or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted, or proved to the satisfaction of the Court, to have been written or made by that person, may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

PUBLIC DOCUMENTS.

Public documents.

LXXIV. The following documents are public documents :—

1.—Documents forming the Acts, or records of the Acts—

(i) of the sovereign authority ;

(ii) of official bodies and tribunals ; and

(iii) of public officers, legislative, judicial, and executive, whether of British India, or of any other part of Her Majesty's dominions, or of a foreign country :

2.—Public records kept in British India of private documents.

Private documents.

LXXV. All other documents are private.

Certified copies of public documents.

LXXVI. Every public officer having the custody of a public document which any person has a right to inspect, shall give that person, on demand, a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy, that it is a true copy of such document, or part thereof, as the case may be, and such certificate shall

be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

Explanation.—Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

Production of such copies.

LXXVII. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

Proof of other official documents.

LXXVIII. The following public documents may be proved as follows :—

(1.)—Acts, orders, or notifications of the Executive Government of British India in any of its departments, or of any local Government or any department of any local Government,

by the records of the departments certified by the heads of those departments respectively,

or by any document purporting to be printed by order of any such Government:

(2.)—The proceedings of the legislatures,

by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of Government:

(3.)—Proclamations, orders, or regulations issued by Her Majesty or by the Privy Council, or by any department of Her Majesty's Government,

by copies or extracts contained in the *London Gazette*, or purporting to be printed by the Queen's Printer:

(4.)—The acts of the Executive or the proceedings of the Legislature of a foreign country,

by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some public Act of the Governor-General of India in Council:

(5.)—The proceedings of a municipal body in British India,

by a copy of such proceedings certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body:

(6.)—Public documents of any other class in a foreign country,

by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a notary public or of a British consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

PRESUMPTIONS AS TO DOCUMENTS.

Presumption as to genuineness of certified copies.

LXXIX. The Court shall presume every document purporting to be a certificate, certified copy, or other document, which is by law declared to be admissible as evidence of any particular fact, and which purports to be duly certified by any officer in British India, or by any officer in any Native State in alliance with Her Majesty who is duly authorized thereto by

the Governor-General in Council, to be genuine: Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf. The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.

Presumption on production of record of evidence.

LXXX. Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding, or before any officer authorized by law to take such evidence, or to be a statement or confession by any prisoner or accused person taken in accordance with law, and purporting to be signed by any Judge or Magistrate or by any such officer as aforesaid, the Court shall presume—

that the document is genuine; that any statements, as to the circumstances under which it was taken, purporting to be made by the person signing it, are true; and that such evidence, statement, or confession was duly taken.

Presumption as to Gazettes.

LXXXI. The Court shall presume the genuineness of every document purporting to be the *London Gazette*, or the *Gazette of India*, or the Government Gazette of any local Government, or of any colony, dependency, or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament printed by the Queen's Printer, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

Presumption as to document admissible in England without proof of seal or signature.

LXXXII. When any document is produced to any Court, purporting to be a document which, by the law in force for the time being in England or Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland without proof of the seal or stamp, or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp, or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims,

and the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.

Proof of maps.

LXXXIII. The Court shall presume that maps or plans, purporting to be made by the authority of Government, were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.

Presumption as to collections of laws and reports of decisions.

LXXXIV. The Court shall presume the genuineness of every book, purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country,

and of every book purporting to contain reports of decisions of the Courts of such country.

Presumption as to powers-of-attorney.

LXXXV. The Court shall presume that every document, purporting to be a power-of-attorney, and to have been executed before and authenticated by a notary public, or any Court Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India, was so executed and authenticated.

Presumption as to certified copies of foreign judicial records.

LXXXVI. The Court may presume that any document, purporting to be a certified copy of any judicial record of any country not forming part of Her Majesty's dominions, is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of Her Majesty or of the Government of India resident in such country to be the manner commonly in use in that country for the certification of copies of judicial records.

Presumption as to books and maps.

LXXXVII. The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person, and at the time and place, by whom or at which it purports to have been written or published.

Presumption as to telegraphic messages.

LXXXVIII. The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.

Presumption as to due execution, &c., of documents not produced.

LXXXIX. The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped, and executed in the manner required by law.

Documents thirty years old.

XC. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document which purports to be in the handwriting of any particular person is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Explanation.—Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

This explanation applies also to Section 81.

Illustrations.

(*a.*) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land showing his titles to it. The custody is proper.

(*b.*) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.

(*c.*) A, a connection of B, produces deeds relating to lands in B's possession, which were deposited with him by B for safe custody. The custody is proper.

CHAPTER VI.—OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE.

Evidence of terms of written contract.

XCI. When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant, or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

Exception 1.—When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

Exception 2.—Wills under the Indian Succession Act may be proved by the probate.

Explanation 1.—This section applies equally to cases in which the contracts, grants, or disposition of property referred to are contained in one document, and to cases in which they are contained in more documents than one.

Explanation 2.—Where there are more originals than one, one original only need be proved.

Explanation 3.—The statement in any document whatever of a fact, other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.

Illustrations.

(*a*.) If a contract be contained in several letters, all the letters in which it is contained must be proved.

(*b*.) If a contract is contained in a bill of exchange, the bill of exchange must be proved.

(*c*.) If a bill of exchange is drawn in a set of three, one only need be proved.

(*d*.) A contracts in writing with B for the delivery of indigo upon certain terms. The contract mentions the fact that B had paid A the price of other indigo contracted for verbally on another occasion.

Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.

(*e*.) A gives B a receipt for money paid by B. Oral evidence is offered of the payment. The evidence is admissible.

Exclusion of evidence of oral agreement.

XCII. When the terms of any such contract, grant, or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted as between the parties to any such instrument, or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from its terms :

Proviso (1).—Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law.

Proviso (2).—The existence of any separate oral agreement as to any matter on which a document is silent and which is not inconsistent with its terms, may be proved. In considering whether or

not this proviso applies, the Court shall have regard to the degree of formality of the document.

Proviso (3).—The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant, or disposition of property, may be proved.

Proviso (4).—The existence of any distinct subsequent oral agreement, to rescind or modify any such contract, grant, or disposition of property, may be proved, except in cases in which such contract, grant, or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

Proviso (5).—Any usage or custom by which incidents, not expressly mentioned in any contract, are usually annexed to contracts of that description, may be proved: Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

Proviso (6).—Any fact may be proved which shows in what manner the language of a document is related to existing facts.

Illustrations.

(*a*.) A policy of insurance is effected on goods "in ships from Calcutta to London." The goods are shipped in a particular ship, which is lost. The fact that that particular ship was orally excepted from the policy, cannot be proved.

(*b*.) A agrees absolutely in writing to pay B Rs. 1,000 on the 1st March, 1873. The fact that, at the same time, an oral agreement was made that the money should not be paid till the 31st March, cannot be proved.

(*c*.) An estate called 'the Rampore Tea Estate' is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed, cannot be proved.

(*d*.) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.

(*e*.) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be re-formed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract re-formed.

(*f*.) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.

(*g*.) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: 'Bought of A a horse for Rs. 500.' B may prove the verbal warranty.

(*h*.) A hires lodgings of B, and gives B a card on which is written—'Rooms, Rs. 200 a month.' A may prove a verbal agreement that these terms were to include partial board.

A hires lodgings of B for a year, and a regularly stamped agreement drawn up by an attorney is made between them. It is silent on the subject of board. A may not prove that board was included in the terms verbally.

(*i*.) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount, A may prove this.

(*j*.) A and B make a contract in writing, to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.

Exclusion of evidence to explain or amend ambiguous document.

XCIII. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.

Illustrations.

(*a.*) A agrees in writing to sell a horse to B for 'Rs. 1,000 or Rs. 1,500.' Evidence cannot be given to show which price was to be given.

(*b.*) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.

Exclusion of evidence against application of document to existing facts.

XCIV. When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

Illustration.

A sells to B by deed 'my estate at Rampore containing 100 bígás.' A has an estate at Rampore containing 100 bígás. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.

Evidence as to document unmeaning in reference to existing facts.

XCV. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

Illustration.

A sells to B by deed 'my house in Calcutta.'

A had no house in Calcutta, but it appears that he had a house at Howrah, of which B had been in possession since the execution of the deed.

These facts may be proved to show that the deed related to the house at Howrah.

Evidence as to application of language which can apply to one only of several persons or things.

XCVI. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

Illustrations.

(*a.*) A agrees to sell to B for Rs. 1,000 'my white horse.' A has two white horses. Evidence may be given of facts which show which of them was meant.

(*b.*) A agrees to accompany B to Hyderabad. Evidence may be given of facts showing whether Hyderabad in the Deccan or Hyderabad in Scind was meant.

Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.

XCVII. When the language used applies partly to one set of existing facts and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

Illustration.

A agrees to sell to B 'my land at X' in the occupation of Y. A has land at X, but not in the occupation of Y, and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

Evidence as to meaning of illegible characters, &c.

XCVIII. Evidence may be given to show the meaning of illegible or not commonly intelligible characters of foreign, obsolete, technical, local, and provincial expressions, of abbreviations, and of words used in a peculiar sense.

Illustration.

A, a sculptor, agrees to sell to B all 'my mods.' A has both models and modelling tools. Evidence may be given to show which he meant to sell.

Who may give evidence of agreement varying terms of document.

XCIX. Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

Illustration.

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement, that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C if it affected his interests.

Saving of provisions of Indian Succession Act relating to wills.

C. Nothing in this chapter contained shall be taken to affect any of the provisions of the Indian Succession Act (X. of 1865) as to the construction of wills.

PART III.

PRODUCTION AND EFFECT OF EVIDENCE.

CHAPTER VII.—OF THE BURDEN OF PROOF.

Burden of proof.

CI. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations.

(*a.*) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(*b.*) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts and which B denies to be true.

A must prove the existence of those facts.

On whom burden of proof lies.

CII. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Illustrations.

(*a.*) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore the burden of proof is on A.

(*b.*) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

Burden of proof as to particular fact.

CIII. The burden of proof as to any particular facts lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Illustration.

(*a.*) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

Burden of proving fact to be proved to make evidence admissible.

CIV. The burden of proving any fact, necessary to be proved in order to enable any person to give evidence of any other fact, is on the person who wishes to give such evidence.

Illustrations.

(*a.*) A wishes to prove a dying declaration by B. A must prove B's death.

(*b.*) A wishes to prove, by secondary evidence, the contents of a lost document. A must prove that the document has been lost.

Burden of proving that case of accused comes within exceptions.

CV. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the general exceptions in the Indian Penal Code, or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

Illustrations.

(*a.*) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.

The burden of proof is on A.

(*b.*) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.

The burden of proof is on A.

(*c.*) Section 325 of the Indian Penal Code provides, that whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt, shall be subject to certain punishments.

A is charged with voluntarily causing grievous hurt under Section 325.

The burden of proving the circumstances bringing the case under Section 335, lies on A.

Burden of proving fact especially within knowledge.

CVI. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations.

(*a.*) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(*b.*) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

Burden of proving death of person known to have been alive within thirty years.

CVII. When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

Burden of proving that person is alive who has not been heard of for seven years.

CVIII. When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is on the person who affirms it.

Burden of proof as to partnership, tenancy, and agency.

CIX. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.

Burden of proof as to ownership.

CX. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Proof of good faith in transactions where one party is in relation of active confidence.

CXI. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

Illustrations.

(*a.*) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.

(*b.*) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.

Birth during marriage, conclusive proof of legitimacy.

CXII. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

Proof of cession of territory.

CXIII. A notification in the *Gazette of India* that any portion of British territory has been ceded to any Native State, Prince, or Ruler, shall be conclusive proof that a valid cession of such territory took place at the date mentioned in such notification.

Court may presume existence of certain facts.

CXIV. The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business in their relation to the facts of the particular case.

Illustrations.

The Court may presume—

(*a.*) That a man who is in possession of stolen goods soon after the theft is either the thief, or has received the goods knowing them to be stolen, unless he can account for his possession;

(*b.*) That an accomplice is unworthy of credit, unless he is corroborated in material particulars;

(*c.*) That a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;

(*d.*) That a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;

(*e.*) That judicial and official acts have been regularly performed;

(*f.*) That the common course of business has been followed in particular cases;

(*g.*) That evidence which could be and is not produced, would, if produced, be unfavourable to the person who withholds it;

(*h.*) That if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;

(*i.*) That when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before them :—

As to illustration (*a*)—A shopkeeper has in his till a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business :

As to illustration (*b*)—A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself :

As to illustration (*b*)—A crime is committed by several persons. A, B, and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable :

As to illustration (*c*)—A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence :

As to illustration (*d*)—It is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course :

As to illustration (*e*)—A judicial act, the regularity of which is in question, was performed under exceptional circumstances :

As to illustration (*f*)—The question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances :

As to illustration (*g*)—A man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family :

As to illustration (*h*)—A man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked :

As to illustration (*i*)—A bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

CHAPTER VIII.—ESTOPPEL.

Estoppel.

CXV. When one person has, by his declaration, act, or omission, intentionally caused, or permitted another person to believe, a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

Illustration.

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

Estoppel of tenant.

CXVI. No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the license of the person in possession thereof, shall be permitted to deny that such person had a title to such possession at the time when such license was given.

Estoppel of acceptor of bill of exchange, bailee or licensee.

CXVII. No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it, nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at

the time when the bailment or license commenced, authority to make such bailment or grant such license.

Explanation (1).—The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

Explanation (2).—If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.

CHAPTER IX.

OF WITNESSES.

Who may testify.

CXVIII. All persons shall be competent to testify, unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.—A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

Dumb witnesses.

CXIX. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written, and the signs made, in open Court. Evidence so given shall be deemed to be oral evidence.

Married persons in civil and criminal proceedings.

CXX. In all civil proceedings, the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

Magistrates and Judges.

CXXI. No Judge or Magistrate shall, except upon the special order of some Court to which he is subordinate, be compelled to answer any questions as to his own conduct in Court as such Judge or Magistrate, or as to anything which came to his knowledge in Court as such Judge or Magistrate; but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Illustrations.

(*a*.) A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a superior Court.

(*b*.) A is accused before the Court of Session of having given false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of the superior Court.

(*c*.) A is accused before the Court of Session of attempting to murder a Police Officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.

Communications during marriage.

CXXII. No person, who is or has been married, shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married; nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents; except in suits between married

persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

Evidence as to affairs of State.

CXXIII. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

Official communications.

CXXIV. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

Information as to commission of offences.

CXXV. No Magistrate or Police Officer shall be compelled to say whence he got any information as to the commission of any offence.

Professional communications.

CXXVI. No barrister, attorney, pleader, or vakil shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney, or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment;

Provided that nothing in this section shall protect from disclosure—

(1.)—Any such communication made in furtherance of any criminal purpose;

(2.)—Any fact observed by any barrister, pleader, attorney, or vakil in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

It is immaterial whether the attention of such barrister, attorney, or vakil was or was not directed to such fact by or on behalf of his client.

Explanation.—The obligation stated in this section continues after the employment has ceased.

Illustrations.

(*a.*) A, a client, says to B, an attorney,—'I have committed forgery, and I wish you to defend me.'

As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(*b.*) A, a client, says to B, an attorney,—'I wish to obtain possession of property by the use of a forged deed, on which I request you to sue.

This communication, being made in furtherance of a criminal purpose, is not protected from disclosure.

(*c.*) A, being charged with embezzlement, retains B, an attorney, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account-book charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact, observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

Section 126 to apply to interpreters, &c.

CXXVII. The provisions of Section 126 shall apply to interpreters and the clerks or servants of barristers, pleaders, attorneys, and vakils.

Privilege not waived by volunteering evidence.

CXXVIII. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in Section 126; and if any party to a suit or proceeding calls any such barrister, attorney, or vakil as a witness, he shall be deemed to have consented to such disclosure, only if he questions such barrister, attorney, or vakil on matters which, but for such question, he would not be at liberty to disclose.

Confidential communication with legal advisers.

CXXIX. No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

Production of witness' title-deeds.

CXXX. No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property, or any document in virtue of which he holds any property as pledgee or mortgagee, or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

Production of documents which another person, having possession, would have been entitled to refuse.

CXXXI. No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last mentioned person consents to their production.

Witness not excused from answering on ground that answer will criminate.

CXXXII. A witness shall not be excused from answering any question as to any matter, relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind;

Proviso.

Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

Accomplice.

CXXXIII. An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Number of witnesses.

CXXXIV. No particular number of witnesses shall in any case be required for the proof of any fact.

CHAPTER X.—OF THE EXAMINATION OF WITNESSES.

Order of production and examination of witnesses.

CXXXV. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, by the discretion of the Court.

Judge to decide as to admissibility of evidence.

CXXXVI. When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact and the Court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

Illustrations.

(*a.*) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under Section 32.

The fact that the person is dead must be proved by the person proposing to prove the statement before evidence is given of the statement.

(*b.*) It is proposed to prove by a copy the contents of a document said to be lost.

The fact that the original is lost must be proved by the person proposing to produce the copy before the copy is produced.

(*c.*) A is accused of receiving stolen property knowing it to have been stolen.

It is proposed to prove that he denied the possession of the property.

The relevancy of the denial depends on the identity of the property. The Court may in its discretion either require the property to be identified before the denial of the possession is proved, or permit the denial of the possession to be proved before the property is identified.

(*d.*) It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact in issue. There are several intermediate facts (B, C, and D) which must be shown to exist before the fact A can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C, or D is proved, or may require proof of B, C, and D before permitting proof of A.

Examination-in-chief. Cross-examination. Re-examination.

CXXXVII. The examination of the witness by the party who calls him shall be called his examination-in-chief. The examination of a witness by the adverse party shall be called his cross-examination. The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

Order of examinations. Direction of re-examination.

CXXXVIII. Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined.

The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

The re-examination shall be directed to the explanation of matters referred to in cross-examination; and if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

Cross-examination of person called to produce a document.

CXXXIX. A person summoned to produce a document does not become a witness by the mere fact that he produces it, and cannot be cross-examined unless and until he is called as a witness.

Witnesses to character.

CXL. Witnesses to character may be cross-examined and re-examined.

Leading question.

CXLI. Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question.

When they must not be asked.

CXLII. Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.

The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

When they may be asked.

CXLIII. Leading questions may be asked in cross-examination.

Evidence as to matters in writing.

CXLIV. Any witness may be asked, whilst under examination, whether any contract, grant, or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which, in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

Explanation.—A witness may give oral evidence of statements made by other persons about the contents of documents, if such statements are in themselves relevant facts.

Illustration.

The question is, whether A assaulted B.

C deposes that he heard A say to D,—'B wrote a letter accusing me of theft, and I will be revenged on him.' This statement is relevant, as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

Cross-examination as to previous statements in writing.

CXLV. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Questions lawful in cross-examination.

CXLVI. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend

(1) to test his veracity;

(2) to discover who he is, and what is his position in life; or

(3) to shake his credit, by injuring his character, although the

answer to such questions might tend, directly or indirectly, to criminate him, or might expose or tend, directly or indirectly, to expose him to a penalty or forfeiture.

When witness to be compelled to answer.

CXLVII. If any such question relates to a matter relevant to the suit or proceeding, the provisions of Section 132 shall apply thereto.

Court to decide when question shall be asked, and when witness compelled to answer.

CXLVIII. If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:—

(1.)—Such questions are proper, if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies.

(2.)—Such questions are improper, if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies.

(3.)—Such questions are improper, if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence.

(4.)—The Court may, if it sees fit, draw, from the witness's refusal to answer, the inference that the answer, if given, would be unfavourable.

Question not to be asked without reasonable grounds.

CXLIX. No such question as is referred to in Section 148 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

Illustrations.

(*a.*) A barrister is instructed by an attorney or vakil that an important witness is a dacoit. This is a reasonable ground for asking the witness whether he is a dacoit.

(*b.*) A pleader is informed by a person in Court that an important witness is a dacoit. The informant, on being questioned by the pleader, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dacoit.

(*c.*) A witness, of whom nothing whatever is known, is asked at random whether he is a dacoit. There are here no reasonable grounds for the question.

(*d.*) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dacoit.

Procedure of Court in case of question being asked without reasonable grounds.

CL. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any barrister, pleader, vakil, or attorney, report the circumstances of the case to the High Court or other authority to which such barrister, pleader, vakil, or attorney is subject in the exercise of his profession.

Indecent and scandalous questions.

CLI. The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Questions intended to insult or annoy.

CLII. The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

Exclusion of evidence to contradict answers to questions testing veracity.

CLIII. When a witness has been asked, and has answered, any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but if he answers falsely, he may afterwards be charged with giving false evidence.

Exception 1.—If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.

Exception 2.—If a witness is asked any question tending to impeach his impartiality, and answers it by denying the facts suggested, he may be contradicted.

Illustrations.

(*a.*) A claim against an underwriter is resisted on the ground of fraud.

The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim.

The evidence is inadmissible.

(*b.*) A witness is asked weather he was not dismissed from a situation for dishonesty. He denies it.

Evidence is offered to show that he was dismissed for dishonesty.

The evidence is not admissible.

(*c.*) A affirms that on a certain day he saw B at Lahore.

A is asked whether he himself was not on that day at Calcutta. He denies it.

Evidence is offered to show that A was on that day at Calcutta.

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Lahore.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(*d.*) A is asked whether his family has not had a blood feud with the family of B, against whom he gives evidence.

He denies it. He may be contradicted, on the ground that the question tends to impeach his impartiality.

Question by party to his own witness.

CLIV. The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

Impeaching credit of witness.

CLV. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:—

(1.)—By the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

(2.)—By proof that the witness has been bribed or has had the offer of a bribe, or has received any other corrupt inducement to give his evidence.

(3.)—By proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;

(4.)—When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

Explanation.—A witness declaring another witness to be unworthy of credit, may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

Illustrations.

(*a.*) A sues B for the price of goods sold and delivered to B.

C says that he delivered the goods to B.

Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.

The evidence is admissible.

(*b.*) A is indicted for the murder of B.

C says that B, when dying, declared that A had given B the wound of which he died.

Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence.

The evidence is admissible.

Question tending to corroborate evidence of relevant fact, admissible.

CLVI. When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occured, if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

Illustration.

A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents, unconnected with the robbery, which occurred on his way to and from the place where it was committed.

Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

Former statements of witness may be proved to corroborate later testimony as to same fact.

CLVII. In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

What matters may be proved in connection with proved statement relevant under Section 32 or 33.

CLVIII. Whenever any statement, relevant under Section 32 or 33, is proved, all matters may be proved, either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied, upon cross-examination, the truth of the matter suggested.

Refreshing memory.

CLIX. A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.

The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

When witness may use copy of document to refresh memory.

Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document: Provided the Court be satisfied that there is sufficient reason for the non-production of the original.

An expert may refresh his memory by reference to professional treatises.

Testimony to facts stated in document mentioned in Section 159.

CLX. A witness may also testify to facts mentioned in any such document as is mentioned in Section 159, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Illustration.

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.

Right of adverse party as to writing used to refresh memory.

CLXI. Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it; such party may, if he pleases, cross-examine the witness thereupon.

Production of documents.

CLXII. A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

Translation of documents.

If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence: and if the interpreter disobeys such direction, he shall be held to have committed an offence under Section 166 of the Indian Penal Code.

Giving as evidence of document called for and produced on notice.

CLXIII. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence, if the party producing it requires him to do so.

Giving as evidence of document production of which was refused on notice.

CLXIV. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court.

Illustration.

A sues B on an agreement, and gives B notice to produce it. At the trial, A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

Judge's power to put questions or order production.

CLXV. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved.

Provided also, that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under Sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under Section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.

Power of jury or assessors to put questions.

CLXVI. In cases tried by jury or with assessors, the jury or assessors may put any questions to the witnesses, through or by leave of the Judge, which the Judge himself might put and which he considers proper.

CHAPTER XI.—OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE.

No new trial for rejection or improper reception of evidence.

CLXVII. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court, before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

SCHEDULE.

Number and Year.	TITLE.	Extent of Repeal.
Stat. 26 Geo. III., c. 57	For the further regulation of the trial of persons accused of certain offences committed in the East Indies; for repealing so much of an Act, made in the twenty-fourth year of the reign of his present Majesty (intituled "An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies"), as requires the servants of the East India Company to deliver inventories of their estates and effects; for rendering the laws more effectual against persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of deeds and writings executed in Great Britain or India.	Section 38, so far as it relates to Courts of Justice in the East Indies.

SCHEDULE—*(continued.)*

Number and Year.	TITLE.	Extent of Repeal.
Stat. 14 & 15 Vic., c. 99	To amend the Law of Evidence.	Section 11, and so much of Section 19 as relates to British India.
Act XV. of 1852 ...	To amend the Law of Evidence.	So much as has not been heretofore repealed.
Act XIX. of 1853 ...	To amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.	Section 19.
Act II. of 1855 ...	For the further improvement of the Law of Evidence.	So much as has not been heretofore repealed.
Act XXV. of 1861 ...	For simplifying the procedure of the Courts of Criminal Judicature not established by Royal Charter.	Section 237.
Act I. of 1868 ...	The General Clauses Act, 1868.	Sections 7 and 8.

ACT No. II. OF 1872.

An Act to revive and continue the operation of Act XV. of 1867 *(to make better provision for the appointment of Municipal Committees in the Punjab, and for other purposes).*

Preamble.

Whereas the term for which Act XV. of 1867 was enacted to be in force has expired, and it is expedient to revive and continue the operation of the said Act; It is hereby enacted as follows:—

Revival and continuance of Act XV. of 1867.

I. Act XV. of 1867 shall be deemed to be and to have been in force throughout the territories subject to the control of the Lieutenant-Governor of the Punjab from the last day of February 1872, and shall continue in force in the said territories until the first day of March 1873.

ACT No. III. OF 1872.

Preamble.
1. Local extent. Commencement.
2. Conditions upon which marriages under Act may be celebrated.
3. Appointment of Marriage Registrars.
4. One of the parties to intended marriage to give notice to Registrar.
5. Notice to be filed, and copy entered in the Marriage Notice Book.
6. Objection to marriage.
7. Procedure on receipt of objection Objector may file suit.
8. Certificate of filing of suit to be lodged with Registrar.
9. Court may fine when objection not reasonable.
10. Declaration by parties and witnesses.
11. Marriage how to be solemnized.
12. Place where marriage may be solemnized.
13. Form of certificate.
14. Fees.
15. Penalty on married person marrying again under Act.
16. Punishment of bigamy.
17. Indian Divorce Act to apply.
18. Law to apply to issue of marriages under Act.
19. Saving of marriages solemnized otherwise than under Act.
20. Registry of marriages contracted before passing of Act
21. Penalty for signing declarations or certificates containing false statements.

An Act to provide a form of Marriage in certain cases.

Preamble.

Whereas it is expedient to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh, or Jaina religion, and to legalize certain marriages the validity of which is doubtful; It is hereby enacted as follows:—

Local extent. Commencement.

I. This Act extends to the whole of British India, and shall come into force on the passing thereof.

Conditions upon which marriages may be celebrated under Act.

II. Marriages may be celebrated under this Act between persons neither of whom professes the Christian or the Jewish, or the Hindú or the Muhammadan, or the Pársí or the Buddhist, or the Sikh or the Jaina religion, upon the following conditions:—

(1.)—Neither party must, at the time of the marriage, have a husband or wife living;

(2.)—The man must have completed his age of eighteen years, and the woman her age of fourteen years, according to the Gregorian calendar;

(3.)—Each party must, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her father or guardian to the marriage;

(4.)—The parties must not be related to each other in any degree of consanguinity or affinity which would, according to any law to which either of them is subject, render a marriage between them illegal.

1st Proviso.—No such law or custom, other than one relating to consanguinity or affinity, shall prevent them from marrying.

2nd Proviso.—No law or custom as to consanguinity shall prevent them from marrying, unless a relationship can be traced between the parties through some common ancestor, who stands to each of them in a nearer relationship than that of great-great-grandfather or great-great-grandmother, or unless one of the parties is the lineal ancestor, or the brother or sister of some lineal ancestor, of the other.

Appointment of Marriage Registrars.

III. The local Government may appoint one or more Registrars under this Act, either by name or as holding any office for the time being, for any portion of the territory subject to its administration. The officers

so appointed shall be called 'Registrar of Marriages under Act III. of 1872,' and is hereinafter referred to as 'the Registrar.' The portion of territory for which any such officer is appointed shall be deemed his district.

One of the parties to intended marriage to give notice to Registrar.

IV. When a marriage is intended to be solemnized under this Act, one of the parties must give notice in writing to the Registrar before whom it is to be solemnized.

The Registrar to whom such notice is given must be the Registrar of a district within which one at least of the parties to the marriage has resided for fourteen days before such notice is given.

Such notice may be in the form given in the first schedule to this Act.

Notice to be filed, and copy entered in the Marriage Notice Book.

V. The Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice in a book to be for that purpose furnished to him by the Government, to be called 'The Marriage Notice Book under Act III. of 1872;' and such book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

Objection to marriage.

VI. Fourteen days after notice of an intended marriage has been given under Section 4, such marriage may be solemnized, unless it has been previously objected to in the manner hereinafter mentioned.

Any person may object to any such marriage on the ground that it would contravene some one or more of the conditions prescribed in clauses (1), (2), (3), or (4) of Section 2.

The nature of the objection made shall be recorded in writing by the Registrar in the register, and shall, if necessary, be read over and explained to the person making the objection, and shall be signed by him or on his behalf.

Procedure on receipt of objection.

VII. On receipt of such notice of objection, the Registrar shall not proceed to solemnize the marriage until the lapse of fourteen days from the receipt of such objection, if there be a Court of competent jurisdiction open at the time; or, if there be no such Court open at the time, until the lapse of fourteen days from the opening of such Court.

Objector may file suit.

The person objecting to the intended marriage may file a suit in any Civil Court having local jurisdiction (other than a Court of Small Causes) for a declaratory decree, declaring that such marriage would contravene some one or more of the conditions prescribed in clauses (1), (2), (3), or (4) of Section 2.

Certificate of filing of suit to be lodged with Registrar.

VIII. The officer before whom such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been filed. If such certificate be lodged with the Registrar within fourteen days from the receipt of notice of objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, within fourteen days of the opening of such Court, the marriage shall not be solemnized till the decision of such Court has been given, and the period allowed by law for appeals from

such decision has elapsed; or, if there be an appeal from such decision, till the decision of the Appellate Court has been given.

If such certificate be not lodged in the manner and within the period prescribed in the last preceding paragraph, or if the decision of the Court be that such marriage would not contravene any one or more of the conditions prescribed in clauses (1), (2), (3), or (4) of Section 2, such marriage may be solemnized.

If the decision of such Court be that the marriage in question would contravene any one or more of the conditions prescribed in clauses (1), (2), (3), or (4) of Section 2, the marriage shall not be solemnized.

Court may fine when objection not reasonable.

IX. Any Court, in which any such suit as is referred to in Section 7 is filed, may, if it shall appear to it that the objection was not reasonable and *bonâ fide*, inflict a fine, not exceeding 1,000 rupees, on the person objecting, and award it, or any part of it, to the parties to the intended marriage.

Declaration by parties and witnesses.

X. Before the marriage is solemnized, the parties and three witnesses shall, in the presence of the Registrar, sign a declaration in the form contained in the second schedule to this Act. If either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her father or guardian, except in the case of a widow; and in every case it shall be countersigned by the Registrar.

Marriage how to be solemnized.

XI. The marriage shall be solemnized in the presence of the Registrar and of the three witnesses who signed the declaration. It may be solemnized in any form, provided that each party says to the other, in the presence and hearing of the Registrar and witnesses, 'I [*A*] take thee [*B*] to be my lawful wife (*or* husband).

Place where marriage may be solemnized.

XII. The marriage may be celebrated either at the office of the Registrar, or at such other place, within reasonable distance of the office of the Registrar, as the parties desire. Provided that the local Government may prescribe the conditions under which such marriages may be solemnized at places other than the Registrar's office, and the additional fees to be paid thereupon.

Form of certificate.

XIII. When the marriage has been solemnized, the Registrar shall enter a certificate thereof in a book to be kept by him for that purpose and to be called the 'Marriage Certificate Book under Act III. of 1872,' in the form given in the third schedule to this Act; and such certificate shall be signed by the parties to the marriage and the three witnesses.

Fees.

XIV. The local Government shall prescribe the fees to be paid to the Registrar for the duties to be discharged by him under this Act.

The Registrar may, if he thinks fit, demand payment of any such fee before solemnization of the marriage or performance of any other duty in respect of which it is payable.

The said Marriage Certificate Book shall at all reasonable times be open for inspection, and shall be admissible as evidence of the truth of the statements therein contained. Certified extracts therefrom shall,

on application, be given by the Registrar, on the payment to him by the applicant of a fee to be fixed by the local Government for each such extract.

Penalty on married person marrying again under Act.

XV. Every person who, being at the time married, procures a marriage of himself to be solemnized under this Act, shall be deemed to have committed an offence under Section 494 or Section 495 of the Indian Penal Code, as the case may be; and the marriage so solemnized is void.

Punishment of bigamy.

XVI. Every person married under this Act, who, during the lifetime of his or her wife or husband, contracts any other marriage, shall be subject to the penalties provided in Sections 494 and 495 of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife, whatever may be the religion which he or she professed at the time of such second marriage.

Indian Divorce Act to apply.

XVII. The Indian Divorce Act shall apply to all marriages contracted under this Act, and any such marriage may be declared null or dissolved in the manner therein provided, and for the causes therein mentioned, or on the ground that it contravenes some one or more of the conditions prescribed in clauses (1), (2), (3), or (4) of Section 2 of this Act.

Law to apply to issue of marriages under Act.

XVIII. The issue of marriages solemnized under this Act shall, if they marry under this Act, be deemed to be subject to the law to which their fathers were subject as to the prohibition of marriages by reason of consanguinity and affinity, and the provisos to Section 2 of this Act shall apply to them.

Saving of marriages solemnized otherwise than under Act.

XIX. Nothing in this Act contained shall affect the validity of any marriage not solemnized under its provisions; nor shall this Act be deemed directly or indirectly to affect the validity of any mode of contracting marriage; but if the validity of any such mode shall hereafter come into question before any Court, such question shall be decided as if this Act had not been passed.

Registry of marriages contracted before passing of Act.

XX. All persons who have heretofore contracted marriages in the presence of at least two witnesses, according to any form whatever, may at any time previous to the first day of January 1873 have such marriages registered under this Act, and such marriages shall thereupon be deemed to be and to have been as valid as if they had been contracted and solemnized under this Act: Provided that persons who have such marriages registered under this section must, on such registry, sign a declaration in the form given in the fourth schedule to this Act.

No marriage shall be registered under this Section unless conditions (1), (3), and (4) of Section 2 were complied with; and no such marriage shall be registered under this section, if, during its continuance, either party has contracted a subsequent marriage.

Penalty for signing declarations or certificates containing false statements.

XXI. Every person making, signing, or attesting any declaration or certificate prescribed by this Act, containing a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of the offence described in Section 199 of the Indian Penal Code.

FIRST SCHEDULE.

(See Section 4).

Notice of Marriage.

To a Registrar of Marriages under Act III. of 1872 for the District.

I hereby give you notice that a marriage under Act III. of 1872 is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say):—

Names.	Condition.	Rank or Profession.	Age.	Dwelling-place.	Length of residence.
A. B.	*Unmarried. Widower.*	*Landowner.*	*Of full age.*	.....	*23 days.*
C. D.	*Spinster.*	.....	*Minor.*	.....	.....

Witness my hand, this day of 187 .

(*Signed*) *A. B.*

SECOND SCHEDULE.

(See Section 10).

Declaration to be made by the Bridegroom.

I, *A. B.*, hereby declare as follows :—

1.—I am at the present time unmarried.

2.—I do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh, or Jaina religion.

3.—I have completed my age of eighteen years.

4.—I am not related to *C. D.* [*the bride*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *C. D.* is subject, and subject to the provisos

of clause (4) of Section 2 of Act III. of 1872, render a marriage between us illegal.

[*And when the bridegroom has not completed his age of twenty-one years*:

5.—The consent of my father [*or* guardian, *as the case may be*], has been given to a marriage between myself and *C. D.*, and has not been revoked.]

6.—I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(*Signed*) *A. B.* (*the bridegroom*).

Declaration to be made by Bride.

I, *C. D.*, hereby declare as follows:—

1.—I am at the present time unmarried.

2.—I do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh, or Jaina religion.

3.—I have completed my age of fourteen years.

4.—I am not related to *A. B.* [*the bridegroom*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *A. B.* is subject, and subject to the provisos of clause (4) of Section 2 of Act III. of 1872, render a marriage between us illegal.

[*And when the bride has not completed her age of twenty-one years, unless she is a widow:*

5.—The consent of *M. N.*, my father [*or* guardian, *as the case may be*], has been given to a marriage between myself and *A. B.*, and has not been revoked.]

6.—I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

Signed in our presence by the abovenamed *A. B.* and *C. D.*

G. H.
I. J. } (*three witnesses*).
K. L.

[*And when the bridegroom or bride has not completed the age of twenty-one years, except in the case of a widow:*

Signed in my presence and with my consent by the above *A. B.* and *C. D.*

M. N., the father [*or* guardian] of the abovenamed *A. B.* [*or C. D., as the case may be.*]

(Countersigned) *E. F.*,
Registrar of Marriages under Act III. of 1872 *for the District of*

Dated the *day of* 18 .

THIRD SCHEDULE.

(*See Section* 13).

Registrar's Certificate.

I, *E. F.*, certify that, on the of 18 appeared before me *A. B.* and *C. D.*, each of whom, in my presence and in the presence of three credible witnesses, whose names are signed hereunder, made the declarations required by Act III. of 1872, and that a marriage under the said Act was solemnized between them in my presence.

(Signed) *E. F.*,
Registrar of Marriages under Act III. of 1872 *for the District of*

(Signed) *A. B.*
C. D.

G. H.
I. J. } (*three witnesses*).
K. L.

Dated the day of _____ 18 .

FOURTH SCHEDULE.

(*See Section* 20).

Declaration to be made by the Husband.

I, *A. B.*, hereby declare as follows :—

1.—I was married to *C. D.* at (*place*), on or about (*date*), in the presence of (*two witnesses*).

2.—I was, at the time of my marriage to my wife, *C. D.*, unmarried.

3.—I did not at such time profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh, or Jaina religion.

4.—I have not contracted any subsequent marriage.

5.—I am not related to *C. D.* [*the wife*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *C. D.* is subject, and subject to the provisos of clause (4) of Section 2 of Act III. of 1872, render a marriage between us illegal.

[*And when the bridegroom had not completed his age of twenty-one years:*

6.—The consent of my father [*or* guardian, *as the case may be*] had been given to a marriage between myself and *A. B.*, and had not been revoked.]

7.—I am aware that if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(*Signed*) *A. B.* (*the husband*).

Declaration to be made by the Wife.

I, *C. D.*, hereby declare as follows :—

1.—I was married to *A. B.* at (*place*), on or about (*date*), in the presence of (*two witnesses*).

2.—I was, at the time of my marriage to my husband, *A. B.*, unmarried.

3.—I did not at such time profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh, or Jaina religion.

4.—I have not contracted any subsequent marriage.

5.—I am not related to *A. B.* [*the husband*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *A. B.* is subject, and subject to the provisos of clause (4) of Section 2 of Act III. of 1872, render a marriage between us illegal.

[*And when the bride had not, at the time of her marriage, completed her age of twenty-one years, unless she was then a widow:*

6.—The consent of *M. N.*, my father [*or* guardian, *as the case may be*] had at such time been given to a marriage between myself and *A. B.*, and had not been revoked.]

7.—I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

Signed in our presence by the abovenamed *A. B.* and *C. D.*

G. H. } (*two witnesses*).
I. J. }

(Countersigned) *E. F.*,
Registrar of Marriages under Act III. of 1872 *for the District of*

Dated the *day of* 18 .

ACT No. IV. OF 1872.

THE PUNJAB LAWS ACT, 1872.

Preamble.

1. Short title.
2. Local extent. Commencement.
3. Enactments in force.
4. Enactments repealed.

CIVIL JUDICATURE.

5. Decisions in certain cases to be according to native law.
6. Decisions in cases not specially provided for.
7. Local customs and mercantile usages when valid.

DESCENT OF JAGHIRS.

8. Rule of descent in family of assignee of land revenue.

PRE-EMPTION.

9. Right of pre-emtion defined.
10. To what transactions it extends.
11. Presumption of its existence in village communities.
12. Its existence in towns to be proved.
13. Notice to persons concerned, by vendor or mortgagee of property subject to right.
14. Devolution of right when property to be sold is part of a village.
15. Share of certain immovable property to be offered to co-sharers.
16. Decision of questions between persons claiming right, in respect of immovable property in towns.
17. Suit against vendor or purchaser by person claiming right, to whom no *bonâ fide* offer of the property sold was made.
18. Decree what to contain. Effect of non-payment of purchase money on date fixed by decree.
19. Party to sale by joint owners cannot withdraw his share and claim pre-emption as to rest.
20. Preferential right of co-sharers in well where chakdárí tenure prevails.

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21. Copy of decrees affecting land to be forwarded to Deputy Commissioner.

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22. Power to invest Courts with insolvency jurisdiction.
23. Petition to Court for adjudication of insolvency.
24. Procedure of Court thereupon. Insolvent defined.
25. Insolvent guilty of misconduct may be imprisoned.

26. Fraudulent transfers in expectation of insolvency may be annulled.
27. Power of Court to sell or administer insolvent's estate.
28. Power to give effect to compositions.
29. When Court may order discharge of insolvent. Effect of order.
30. These rules not to apply to persons admitted to benefit of insolvency law in presidency towns.
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34. Deputy Commissioners to be Court of Wards.
35. Jurisdiction of Courts of Wards. Bar of jurisdiction in certain cases.
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37. Appeal to Commissioner against order under Section 36.
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39. Indian Penal Code to apply to offences committed previous to first January, 1862.
Saving of privileges conferred on certain Chiefs.

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40. Local Government may invest any person with powers of Police Officer.

TRACK LAW.

41. Trackers may call for assistance in carrying on tracks.
42. Penalty for withholding assistance or conniving at offence or escape.
Appeal to Chief Court.
Fine may be awarded to injured parties, and fee to tracker.

SLAUGHTER OF KINE.

43. Control of slaughter of kine and sale of beef.

ARMED MEN AND FOREIGN VAGRANTS.

44. Control of entry into towns of bands of armed men.
45. Powers of Magistrate of district as to foreign vagrants.
46. Surveillance, &c., of band failing to comply with Magistrate's order.

MISCELLANEOUS.

47. Regulation of crossing of streams on buoys or skins;
48. Of use of pasturage or natural product of Government land;
49. And of growing, selling, or keeping opium.
50. Local Government to make rules. Penalty for breach of rules.
Existing rules confirmed.
51. Republication of rules and orders.
Schedule I. Enactments declared to be in force.
Schedule II. Enactments repealed.

An Act for declaring which of certain rules, laws, and regulations have the force of law in the Panjáb, and for other purposes.

Preamble.

Whereas certain rules, laws, and regulations, made heretofore for the Punjáb, acquired the force of law under the provisions of Section 25 of the 'Indian Councils' Act, 1861;' and whereas it is expedient to declare which of the said rules, laws, and regulations shall henceforth be in force in the Punjáb, and to amend, consolidate, or repeal others of the said rules, orders, and regulations; It is hereby enacted as follows:—

Short title.

I. This Act may be called 'The Punjáb Laws Act, 1872.'

Local extent.

II. It extends to the territories now under the administration of the Lieutenant-Governor of the Punjáb, but not so as to alter the effect of any regulations made for any parts of the said territories under the Statute 33 Vic., c. 3, s. 1;

Commencement.

And it shall come into force on the first day of June, 1872.

Enactments in force.

III. The Regulations, Acts, and orders specified in the first schedule hereto annexed are in force in the Punjáb to the extent specified in the third column of the said schedule.

Enactments repealed.

IV. The Regulations, Acts, and orders specified in the second schedule hereto annexed are repealed to the extent specified in the third column thereof.

CIVIL JUDICATURE.

Decisions in certain cases to be according to Native law.

V. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partition, or any religious usage or institution,

the rule of decision shall be—

(1) any custom of any body or class of persons, which is not contrary to justice, equity, and good conscience, and has not been declared to be void by any competent authority;

(2) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is referred to in the preceding clause of this section.

Decisions in cases not specially provided for.

VI. In cases not otherwise specially provided for, the Judges shall decide according to justice, equity, and good conscience.

Local customs and mercantile usages when valid.

VII. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity, or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

DESCENT OF JAGHIRS.

Rule of descent in family of assignee of land revenue.

VIII. In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land revenue, such rule of descent shall be held to prevail, and to have prevailed amongst them from the time when the declaration was made.

PRE-EMPTION.

Right of pre-emption defined.

IX. The right of pre-emption is a right on the part of certain persons to purchase immovable property in certain cases in preference to all other persons.

To what transactions it extends.

X. The right of pre-emption extends to all permanent dispositions of property, including sales under a decree of Court and foreclosures of mortgages; but it does not affect transfers made in good faith by way of gift, nor temporary dispositions of property.

Presumption of its existence in village communities.

XI. The right of pre-emption shall be presumed to exist, whether recorded in the list of customs at settlement or not, in all village communities however constituted, unless the existence of any custom or contract to the contrary can be proved. It shall be presumed to extend to the village site, to the houses built upon it, to all

lands and shares of lands within the village boundary, and to all transferable rights of occupancy affecting such lands.

Its existence in towns to be proved.

XII. The right of pre-emption shall not be presumed, but may be shown, to exist in any town or city, or any sub-division thereof.

Notice to persons concerned, by vendor or mortgagee of property subject to right.

XIII. When any person proposes to sell any property, or to foreclose a mortgage upon any property which is subject to the custom of pre-emption, he must give notice to the persons concerned of the price at which he offers to sell such property, or of the amount due in respect of such mortgage, as the case may be.

Devolution of right, when property to be sold is part of a village.

XIV. If the property to be sold is situated within, or is a share of, a village, the right to accept such offer or to redeem such mortgage belongs, in the absence of custom to the contrary—

First, to co-sharers in the village in the order of relationship to the vendor or mortgagor;

Secondly, if no relation of the vendor or mortgagor claim pre-emption, to the landowners of the pattí or other sub-division of the village in which the property is situated, jointly;

Thirdly, to any member of the village community;

Fourthly, to tenants with rights of occupancy in the village, if any.

Share of certain immovable property to be offered to co-sharers.

XV. If the property to be sold is a share in joint undivided immovable property, other than land, the offer to sell must be made to the co-sharers.

Decision of questions between persons claiming right in respect of immovable property in towns.

XVI. When any question arises between persons claiming a right of pre-emption over any immovable property situated in any town or city, such questions shall, in the absence of custom to the contrary, be decided according to vicinity, relationship, or the merits of the case.

Suit against vendor or purchaser by person claiming right, to whom no bonâ fide offer was made.

XVII. Any person, who claims a right of pre-emption over any property, may bring a suit against the vendor or purchaser on the ground, either that no previous offer of the property sold was made to him, or that any such offer to sell made to him was not made in good faith; and if the Court is of opinion that the plaintiff has a right of pre-emption over such property, and that no such offer was made, or that the offer was not made in good faith, it shall make a decree directing the defendant to sell such property to the plaintiff at such a price as appears to the Court to be the fair market value of the property.

Decree what to contain.

Effect of non-payment on date fixed by decree.

XVIII. The decree shall specify a day on or before which the purchase-money shall be paid. If the purchase-money is not paid before sunset on that day, the decree shall become void, and the plaintiff shall lose his right of pre-emption over the property to which it relates.

Party to sale by joint owners cannot withdraw his share and claim pre-emption as to rest.

XIX. In case of sale by joint owners, no person who has been a party can withdraw his own share and claim a right of pre-emption as to the rest.

Preferential right of co-sharers in well where chakdárí tenure prevails.

XX. In villages in which the chakdárí tenure prevails, the co-sharers in a well have a right of pre-emption as to shares in such well in preference to a general proprietor in any such village having no share in the well, but merely receiving a haq zamíndárí from the 'chakdárs.'

DECREES CONCERNING LAND.

Copy of decrees affecting land to be forwarded to Deputy Commissioner.

XXI. Every Judge of a Civil Court in which a decree, affecting the proprietary right in or possession of land is passed, shall cause a certified copy of such decree to be forwarded to the Deputy Commissioner of the district within a month from the making of such decree.

INSOLVENCY.

Power to invest Courts with insolvency jurisdiction.

XXII. The local Government may invest any Court or any class of Courts with insolvency jurisdiction in any specified local area.

Petition to Court for adjudication of insolvency.

XXIII. Any debtor, whose debts amount to rupees five hundred or upwards, and any creditor or creditors, to whom an aggregate sum of not less than rupees five hundred is due from any such debtor, may petition the Court having local insolvency jurisdiction that the debtor be adjudicated an insolvent.

Procedure of Court thereupon.

XXIV. If it appear that the debtor's liabilities amount to more than rupees five hundred, the Court may—

(1) call upon the debtor to make a statement of his assets and liabilities;

(2) invite by proclamation or otherwise the appearance of persons to record claims against the debtor;

(3) register all claims so recorded;

(4) call upon the debtor to give reasonable security for his appearance, or, on default of reasonable security, order his confinement in the civil jail;

(5) attach all the debtor's property in the Punjáb, movable or immovable;

(6) pass an order exempting the person and property of the debtor from further legal process, pending inquiry and the final orders of the Court.

Insolvent defined.

A debtor on whom the order referred to in Clause 6 of the last preceding section is passed, is deemed an insolvent.

Insolvent guilty of misconduct may be imprisoned.

XXV. The Court shall make full enquiry into the origin, nature, and circumstances of the debts, and the conduct of the debtor in relation thereto; and if the insolvent be shown to have been guilty of concealment, fraud, recklessness, or other gross misconduct in reference to the debts, and if his discharge for that reason is opposed by any of the creditors, the Court may, at its discretion, award a term of imprisonment in the civil jail not exceeding one year.

Fraudulent transfers in expectation of insolvency may be annulled.

XXVI. If it appear that the debtor, after becoming unable to meet his liabilities, or in expectation of becoming so, has transferred his property, or any part thereof, with a view to defrauding his creditors, or to giving one or more creditors a fraudulent preference over the others, the Court shall annul such transfer, and treat the property transferred as the other property of the debtor.

Power of Court to sell or administer insolvent's estate.

XXVII. The property of the insolvent shall be sold or administered, under the direction of the Court, either through the agency of its own officers or of assignees to be appointed by the Court, in the manner most conducive to the interest of the creditors, and the proceeds shall be divided rateably amongst them.

Power to give effect to compositions.

XXVIII. The Court shall give effect to any composition or arrangement agreed upon between the debtor and the majority of the creditors: Provided that no injustice or injury appears to be inflicted by such composition or arrangement on any of the parties concerned, and that no fraud nor collusion is suspected. If any creditor objects to such arrangement, the Court shall decide as to the reasonableness of the objection.

When Court may order discharge of insolvent.

XXIX. When the sale or administration of the insolvent's property is complete, the Court may order the insolvent to be discharged, on his signing an agreement to liquidate, from any property which he may subsequently acquire, such portion of his debts as remains unpaid. Such order of discharge shall preclude any creditor whose claim is registered from suing the debtor in respect of such claim, unless it be shown that the debtor has acquired property, since the order of discharge, out of which the claim might have been defrayed.

Effect of order.

Foregoing rules not to apply to persons admitted to benefit of insolvency law in presidency towns.

XXX. Nothing in the preceding sections shall apply to persons who may have been admitted to the benefit of any insolvency law at a presidency town; nor shall any order passed under the preceding sections affect the remedy of any creditor against his debtor in respect of property which, at the time of the insolvency of such debtor, was not in the Punjáb.

Chief Court empowered to frame rules.

XXXI. The Chief Court of the Punjáb may, with the sanction of the local Government, from time to time frame and issue rules, conformable to the provisions hereinbefore contained, for the better administration of insolvent estates, and may, with the like sanction, alter any such rules.

Power to exclude any class from operation of such rules.

XXXII. The local Government may at any time, with the previous sanction of the Governor-General in Council, exclude any particular class or race from the operation of these rules.

Saving of previous insolvency proceedings.

XXXIII. No proceedings of any Court in the exercise of insolvency jurisdiction, had before the passing of this Act, shall be held to have been invalid solely on the ground that such Court did not possess such jurisdiction; all cases pending in any Court of Insolvency when this Act

comes into force, shall be subsequently conducted, so far as may be, in conformity with the rules now prescribed.

MINORS AND THE COURT OF WARDS.

Deputy Commissioners to be Courts of Wards.

XXXIV. Deputy Commissioners shall be Courts of Wards within their respective districts, but shall exercise the functions of such Courts subject to the control of the Commissioner and Financial Commissioner.

Jurisdiction of Court of Wards.

XXXV. The Court of Wards may, at its discretion, take charge of and administer the estates of all females, all minors under the age of eighteen, and idiots or lunatics, who may inherit any beneficial interest in any estate for which a settlement was made with their ancestor, or in respect of which they would have been entitled to be settled with, if they had been competent to make an agreement for the payment of revenue, or who are entitled by inheritance to any assignment of land revenue:

Bar of jurisdiction in certain cases.

Provided that the Court of Wards shall not take charge of or administer any beneficial interest in an estate, in which more persons than one have a joint undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Deputy Commissioner may inquire into circumstances affecting jurisdiction.

XXXVI. The Deputy Commissioner may make an inquiry into the minority, lunacy, or idiotcy of any person who he has reason to believe would, if found to be a minor, lunatic, or idiot, be subject to the jurisdiction of the Court of Wards, and into the circumstances and property of any such person, and may make an order declaring such person to be subject to the jurisdiction of the Court of Wards.

Appeal to Commissioner against order under Section 36.

XXXVII. Any such person may appeal to the Commissioner of the Division against any such order, on the ground that he is not, or has ceased to be, a minor, or that he is not, or has ceased to be, a lunatic or idiot, and the decision of the Commissioner shall be certified to the Court of Wards, and shall be final.

Extent of jurisdiction.

XXXVIII. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto; and the local Government shall make rules as to the manner in which, and the agents by whom, such jurisdiction shall be exercised.

CRIMINAL JUDICATURE.

Indian Penal Code to apply to offences committed previous to 1st January, 1862.

XXXIX. The provisions of the Indian Penal Code, with the exception of Chapter VI., shall be applicable to all offences committed before 1st January, 1862, in territory which was, at the time of the commission of such offence, subject to the Government of the Punjáb:

Saving of privileges conferred on certain Chiefs.

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in the Punjáb by the Governor-General in Council, or by the Board of Administration for the affairs of the Punjáb, nor any indemnity or pardon granted by competent authority.

Honorary Police Officers.

Local Government may invest any person with powers of Police Officer.

XL. The local Government may, if it thinks fit, confer on any person any of the powers which may be exercised by a Police Officer under any Act for the time being in force.

Track Law.

Trackers may call for assistance in carrying on tracks.

XLI. When an offence is, has been, or may reasonably be supposed to have been committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village, the person following such tracks may call upon any headman or village watchman in such village to assist in carrying on the tracks.

Penalty for withholding assistance or conniving at offence or escape.

XLII. If such headman or watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the district may, with the previous sanction of the Commissioner of the division, inflict a fine upon such village not exceeding five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Limit to fine.

Appeal to Chief Court.

An appeal against all convictions under this section shall lie to the Chief Court.

Fine may be awarded to injured parties, and fee to tracker.

The Magistrate may direct that the fine imposed under this section, or any part thereof, shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property, as to the said Magistrate seems fit.

Slaughter of Kine.

Control of slaughter of kine and sale of beef.

XLIII. The slaughter of kine and the sale of beef shall not take place, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government.

Armed Men and Foreign Vagrants.

Control of entry into towns of bands of armed men.

XLIV. No band of armed men shall enter into any city or town, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government.

Powers of Magistrate of district as to foreign vagrants.

XLV. The Magistrate of the district may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it.

Surveillance, &c., of band failing to comply with Magistrate's order.

XLVI. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the local Government, and the local Government may give such directions for the surveillance, control, or deportation of such band, as to it seems fit.

MISCELLANEOUS.

Regulation of crossing of streams on buoys or skins;

XLVII. No person shall cross any river or stream on a buoy or inflated skin, nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government.

of use of pasturage or natural product of Government land;

XLVIII. No person shall make use of the pasturage or other natural product of any land, being the property of the Government, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government.

and of growing, selling, or keeping opium.

XLIX. No person shall grow, sell, or keep in his possession any opium, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government.

Local Government to make rules.

L. The local Government may issue rules as to the matters mentioned in Sections 43 to 49 inclusive, and may, from time to time, cancel or alter any such rules.

Penalty for breach of rules.

Any person, who breaks any rule made by the local Government under this Act, shall be punishable with a fine not exceeding rupees fifty, or imprisonment not exceeding a period of six months, or with both:

Provided—

(1) that such rules be not inconsistent with the provisions of this or any Act or law for the time being in force in the Punjáb;

(2) that, previous to notification, they be sanctioned by the Governor-General in Council;

(3) that they be notified in the local Gazette.

Existing rules confirmed.

Existing rules upon the subjects hereinbefore mentioned shall, until otherwise directed by the local Government, be deemed to have been issued under, and in conformity to, this section.

Re-publication of rules and orders.

LI. All rules which the local Government is empowered to issue under this Act, and all circulars issued by the Chief Court, shall, with the previous sanction of the Governor-General in Council, be re-published once at last in every year; and, upon such re-publication, shall be

arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such re-publication, all such rules and circulars previously issued shall be repealed.

SCHEDULE I.

ENACTMENTS DECLARED TO BE IN FORCE.

Explanation.—This schedule does not refer to any Act which is in its terms applicable to the Punjáb, or which has been extended to the Punjáb by competent authority.

Number and year.	Title.	Extent to which the enactment is in force.
Reg. I. of 1798 ...	A Regulation to prevent fraud and injustice in conditional Sales of Land under deeds of Bye-bil-wuffa, or other deeds of the same nature.	The whole, except such parts as relate to interest.
Reg. X. of 1804 ...	A Regulation for declaring the powers of the Governor-General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-Martial.	The whole, so far it is not modified by Act V. of 1841.
Reg. XVII. of 1806 ...	A Regulation for extending to the Province of Benares the rates of interest on future Loans, and provisions relative thereto, contained in Regulation XV., 1793; also for a general extension of the period fixed by Regulations I., 1798, and XXXIV., 1803, for the redemption of Mortgages and Conditional Sales of Land, under deeds of Bye-bil-wuffa, Kutcubaleh, or other similar designation.	Sections 7 and 8.
Reg. V. of 1817 ...	A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the Rules to be observed on the discovery of such treasure.	The whole.
Reg. III. of 1818 ...	A Regulation for the confinement of State Prisoners.	The whole.
Reg. XI. of 1825 ...	A Regulation for declaring the rules to be observed in determining Claims to Lands gained by alluvion, or by dereliction of a river or the sea.	The whole.
Reg. XX. of 1825 ...	A Regulation for declaring the jurisdiction of the Military Courts-Martial and Courts of Requests constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.	Sections 2 and 4.

SCHEDULE II.

ENACTMENTS DECLARED TO BE IN FORCE—(continued).

Number and Year.	Title.	Extent to which the enactment is in force.
Act XL. of 1858 ...	An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.	The whole.
Act XVII. of 1861 ...	An Act to amend Act XIV. of 1843 (for regulating the Customs Duties in the North-Western Provinces).	The whole, the word 'Punjáb' being substituted for the words 'North-Western Provinces.'
	'Rules for the conservancy of Forests and Jungles in the Hill Districts of the Punjáb Territories,' sanctioned by the Governor-General in Council in letter of the Secretary to the Government of India, No. 1789, 21st May, 1855.	The whole.

SCHEDULE II.

ENACTMENTS REPEALED.

Number and Year.	Title.	Extent of Repeal.
	All Bengal Regulations now in force in the Punjáb, except those specified in Schedule I.	The whole.
	All rules, laws, and regulations made for the Punjáb and its Dependencies, or for any part thereof, by the Governor-General of India or the Governor-General of India in Council or the Lieutenant-Governor of the Punjáb, otherwise than at meetings for making laws and regulations in conformity with the provisions of the Acts of the 3rd and 4th years of King William the Fourth, Chapter eighty-five, and of the 16th and 17th years of Her Majesty, Chapter ninety-five, or other Act in force for the time being, except those specified in schedule I.	The whole.
Act VI. of 1846 ...	An Act for the more convenient administration of the Government of the country called the Bhuttee Territory.	The whole.
Act I. of 1847 .	An Act for the establishment and maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole, so far as it affects the Punjáb.
Act III. of 1870 .	An Act to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.	The whole, so far as it is unrepealed.

ACT No. V. OF 1872.

An Act to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sind.

Preamble.

Whereas it is expedient to remove doubts which have arisen as to the jurisdiction of the High Court of Bombay over the Province of Sind; It is hereby enacted as follows:—

Bar of jurisdiction in Sind of Bombay High Court.

I. The High Court of Bombay has not, and shall be deemed never to have had, jurisdiction over the Province of Sind.

ACT No. VI. OF 1872.

Preamble.
1. Short title.
2. Extent. Commencement.
3. Persons liable to be sworn may, if they object to oath, make simple affirmation.
4. Powers of Court as to certain oaths, when tendered by parties or witnesses.
5. Proceedings and evidence not invalidated by omission of oath or irregularity.
6. Saving of certain oaths and affirmations.

An Act to amend the law relating to Oaths and Affirmations.

Preamble.

Whereas it is expedient to amend the law relating to oaths and affirmations; It is enacted as follows:—

Short title.

I. This Act may be called 'The Oaths Act, 1872.'

Extent.

II. It extends to British India, applies to all oaths or affirmations taken or made by or administered to British subjects in Native Indian States,

Commencement.

and it shall come into force on the passing thereof.

Persons liable to be sworn may, if they object to oath, make simple affirmation.

III. Every person who may by law be sworn or called upon to make a solemn affirmation in any capacity whatever, may, if he objects to such oath or solemn affirmation, make in place thereof a simple affirmation, to the same effect, omitting the words 'So help me God,' 'In the presence of Almighty God,' or other expressions of the same nature.

Powers of Court as to certain oaths, when tendered by parties or witnesses.

IV. If any party to, or witness in, any judicial proceeding offers to give evidence on oath in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit, tender such oath to him.

If any party to any proceeding offers to be bound by any such oath as is mentioned in the first paragraph of this section, if such oath is taken by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness whether he will take the oath or not.

If such party or witness accepts such oath, the Court may proceed to administer it, or if it is of such a nature that it may be more conveniently taken out of Court, the Court may issue a Commission to any person to administer it, and authorize such person to take the evidence of the person to be sworn and return it to the Court.

The evidence so given shall, as against the person who offered to be bound by it, be conclusive proof of the matter stated.

If the party or witness refuses to take the oath, he shall not be compelled to take it, but the Court shall record, as part of the proceedings, the nature of the oath proposed, the facts that he was asked whether he would take it, and that he refused it, together with any reason which he may assign for his refusal.

Proceedings and evidence not invalidated by omission of oath or irregularity.

V. No omission to take any oath or to make any solemn or simple affirmation, no substitution of any one for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution, or irregularity took place.

Saving of certain oaths and affirmations.

VI. Nothing in this Act shall apply to oaths or affirmations prescribed by any law, which, under the provisions of the Indian Councils Act, 1861, the Governor-General in Council has not the power to repeal.

ACT No. VII. OF 1872.

PART I.

Preamble.
1. Short title. Extent. Commencement.
2. Pending suits to be disposed of by Courts in which instituted.
3. Abolition of certain Courts.
4. Transfer of suits pending in Courts of Chief Commissioner and Recorder.
5. Repeal of Acts.
6. Certain decisions to be according to Native Law.
7. Law to be administered in Court of Recorder of Rangoon.
8. Civil Jurisdiction of Courts.
9. Powers of Judicial Commissioner in criminal matters; of Commissioner, and of Judge of Moulmain.
10. Power to fix number of Courts.
11. Chief Commissioner to fix local jurisdiction of Courts.
12. Confirmation of existing Courts and presiding officers.
13. Seal to be used. Place for holding Court.
14. Superintendence over Courts.
15. List of holidays.
16. Chief Commissioner may give special jurisdiction.
17. Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.
18. Exercise, by Chief Commissioner, of powers of local Government.
19. Exercise by one Court within limits of another of same grade, of powers of latter.
20. Procedure when subject matter of suit is situated within jurisdiction of different Courts.
21. Presiding officer of Court not to try suit or appeal in which he is interested, but to transfer to superior Court, which may try or transfer to other Court. Trial of appeal from order of Judicial Commissioner in other capacity, or in which he is interested.
22. Appointment of officers.
23. Suspension and removal of presiding officers.
24. Appointment of ministerial officers of Courts (1) and (2) mentioned in Section 8.
25. Power to fine, suspend, or remove such officers.
26. Recovery of fines.
27. General control of Chief Commissioner over appointments and removals of ministerial officers.
28. Time allowed for presenting appeals to Commissioner.
29. Transfer of civil appellate jurisdiction to Judicial Commissioner.
30. Confirmation of decision of Lower Court without summoning respondent.
31. Reference to Judicial Commissioner.
32. Procedure on such reference. Costs of reference.
33. When Judicial Commissioner may receive second appeal.
34. When decision of first Appellate Court to be final.
35. Reference to Judicial Commissioner, when decision of Lower Court confirmed on certain points.
36. Procedure of Judicial Commissioner thereupon.
37. Reference by Judicial Commissioner to High Court. Procedure thereupon.
38. Provision as to costs to apply.

PART II.

39. The Court of the Recorder of Rangoon. Appointment of Recorder. Place of holding Court. Seal to be used.
40. Local limits of ordinary civil jurisdiction of Recorder.
41. Civil jurisdiction of Recorder.
42. No appeal from Recorder's Court in certain cases. When appeal to lie to High Court.

43. Assessors in civil suits. Remuneration to assessor appointed at desire of suitor.
44. Miscellaneous jurisdiction.
45. Recorder's powers in respect of Small Cause Court, Rangoon.
46. Grant of new trial on application within given time. Review of judgment.
Security from applicant for either.
47. In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.
48. And decree may be passed contingent thereon; but, pending receipt, execution not to issue.
49. Full Bench to deal with cases referred.
50. And parties may appear in person or by Advocate, &c. Transmission of Judgment of High Court, and proceeding thereupon. Costs of reference to High Court.
51. Transfer of suits to Recorder's Court. Trial of such suits.
52. Disposal of suit where Recorder is interested.
Jurisdiction of Judicial Commissioner in cases transferred.
53. Recorder to exercise powers of Session Court within his civil jurisdiction.
54. And powers of revision of High Court as to proceedings of Magistrates.
55. And powers of High Court as to European British subjects.
56. Proceedings to be regulated by Code of Criminal Procedure.
Liability of military officers to serve as jurors. List of officers liable to serve.
Officer summoned not excusable, except for urgent military duty.
57. Sentence of death to be referred to High Court.
58. Licensing of Advocates, and rules regarding qualifications and admission. Saving of agent for Secretary of State, &c. And of Advocates, &c., of High Courts. License may be suspended or withdrawn.
59. Fees of Advocates, &c., subject to taxation.
60. Provision for discharge of duties of Recorder in case of vacancy in his office.
61. Appointment and removal of ministerial officers.
62. Registers, &c., to be kept, and returns to be submitted by Recorder.
63. Power to make rules of practice.
64. Rules for service and execution of process, and table of fees for same. Publication of same.
65. Holidays and vacations. Rules before made to be in force until others made under this Act.
66. Constitution of Special Court.
67. Precedence in Special Court. Use of seal.
68. Rules for Special Court
69. Appeals from Judge of Moulmain.
70. Judicial Commissioner and Recorder may sit as Special Court at the request of either.
71. Chief Commissioner may direct cases to be tried by Special Court.
72. Decree of Special Court to be deemed a decree of original Court.
73. Appeals from Recorder of Rangoon in criminal cases.
74. Powers of Court of reference exerciseable by Special Court.
75. Rules as to finding of Special Court in cases of difference of opinion arising.
76. Decree may be passed contingent on opinion of High Court, but execution not to issue.
77. Procedure of High Court on reference. Costs of reference.
78. Amendment of Section 7, Act XV. of 1869.
79. Saving of trials by Commissioner of Akyab as a Court of Session.

An Act to consolidate and amend the Law relating to the Courts in British Burma.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the Courts in British Burma; It is hereby enacted as follows :—

PART I.

CHAPTER I.

PRELIMINARY.

Short title.

I. This Act may be called 'The Burma Courts Act, 1872.'

Extent.

It extends to all the territories under the Chief Commissioner of British Burma;

Commencement.

and shall come into force on the passing thereof.

Pending suits to be disposed of by Courts in which instituted.

II. All suits, appeals, applications, or proceedings instituted previous to the passing of this Act in any Court, other than the Courts of the Chief Commissioner and Recorders of Rangoon and Moulmain respectively, shall be heard and disposed of by the Courts in which they were instituted.

Abolition of certain Courts.

III. From the date of the passing of this Act, the Court of the Chief Commissioner and the Courts of the Recorders of Rangoon and Moulmain, as established by Act XXI. of 1863, shall cease to exist.

Transfer of suits pending in Courts of Chief Commissioner and Recorder.

IV. All suits, appeals, applications, or proceedings pending in the Court of the Chief Commissioner, shall be transferred to the Court of the Judicial Commissioner; those pending in the Court of the present Recorder of Rangoon shall be transferred to the Court of the Recorder of Rangoon to be established under this Act; and those pending in the Court of the Recorder of Moulmain shall, if they are of a civil nature, be transferred to the Court of the Judge of the town of Moulmain, and if they are of a criminal nature, to the Court which has jurisdiction under this Act.

Repeal of Acts.

V. The Acts mentioned in the schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof.

CHAPTER II.

Law to be Administered.

Certain decisions to be according to Native law.

VI. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution,

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindú law in cases where the parties are Hindús,

shall form the rule of decision, except in so far as such law has by legislative enactment been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity, and good conscience.

Law to be administered in Court of Recorder of Rangoon.

VII. Except as provided in Section 6, all questions of fact, law, and equity, arising in suits before the Recorder of Rangoon, shall be dealt with and determined according to the law administered by the High Court at Fort William, in Bengal, in the exercise of its ordinary original civil jurisdiction.

CHAPTER III.

Constitution and Powers of Courts.

Civil jurisdiction of Courts.

VIII. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, in the adjudication of suits arising within their local jurisdiction, as is specified in the second column thereof:

Name of Court.	Extent of Jurisdiction.
(1.) The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court, where the amount or value of the subject-matter of the suit does not exceed rupees five hundred.
(2.) The Court of the Extra Assistant Commissioner of the second and first class, and the Assistant Commissioner.	Powers of a Civil Court, where the amount or value of the subject-matter of the suit does not exceed rupees three thousand.
(3.) The Court of the Deputy Commissioner.	Powers of a Civil Court, in all suits, whatever be the value or the amount of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (1) and (2), where such appeal is allowed by law. Power to direct the business in the Courts of grades (1) and (2) to be distributed among such Courts in such way as he thinks fit.
(4.) The Court of the Judge of the Town of Moulmain.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of the Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed rupees one thousand.
(5.) The Court of the Commissioner.	Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes, or the Court of the Judge of the Town of Moulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grade (3), where such appeal is allowed by law.
(6.) The Court of the Judicial Commissioner.	Powers of a High Court in relation to all Courts in British Burma, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon. Power to remove and try any suit, appeal, or other proceeding instituted in any subordinate Court, except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof. Power to hear appeals from decrees and orders, in original suits and proceedings, of the Court of the Commissioner, where such appeal is allowed by law.

Provided that where a Small Cause Court is established within the local limits of the jurisdiction of the Courts (1), (2) and (3), the said Courts shall not take cognizance of any suit cognizable by such Court of Small Causes.

Powers of Judicial Commissioner in criminal matters;

IX. The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court in criminal matters in relation to all Courts in Burma, except that of the Recorder of Rangoon, and of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder:

of Commissioner,

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge:

and of Judge of Moulmain.

The Judge of the Town of Moulmain shall have the powers of a Sessions Judge.

Power to fix number of Courts.

X. The Governor-General in Council shall fix, and may from time to time vary, the number of Courts of each grade to be established under this Act.

Chief Commissioner to fix local jurisdiction of Courts.

XI. The Chief Commissioner shall, with the previous sanction of the Governor-General in Council, fix, and may with the like sanction from time to time vary, the local limits of the jurisdiction of any Court mentioned in Section 8.

Confirmation of existing Courts and presiding officers.

XII. All existing Courts corresponding to the Courts mentioned in Section 8, and the presiding officers and the local limits thereof, shall be deemed to have been respectively established, appointed, and fixed under this Act.

XIII. Every Court mentioned in Section 8 shall—

Seal to be used.

(1) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner;

Place for holding Court.

(2) be held at such place or places as may, from time to time, be directed by the Chief Commissioner; or, in the absence of any such direction, at any place within the local jurisdiction of the Court which the presiding officer thinks fit.

Superintendence over Courts.

XIV. The general superintendence over all the Courts of the first five grades mentioned in Section 8 is vested in, and the said Courts shall be subordinate to, the Judicial Commissioner; and, subject to such general superintendence, the Commissioner shall have control over the Courts of the Deputy Commissioners within his division; and the Deputy Commissioner over all the Courts of the first and second grades within his district.

List of holidays.

XV. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

Special Jurisdiction.

Chief Commissioner may give special jurisdiction.

XVI. The Chief Commissioner may invest any Assistant Commissioner, or Extra Assistant Commissioner of the first or second class, with power to try suits of which the amount or value does not exceed five thousand rupees.

Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.

XVII. The Chief Commissioner may invest any presiding officer of the Courts of grades (2) and (3) mentioned in Section 8 with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and of such value or amount as he thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the previsions of the law for the time being in force regulating the procedure of Courts of Small Causes.

Exercise, by Chief Commissioner, of powers of local Government.

XVIII. The Chief Commissioner may exercise the powers conferred on the local Government by Section 7 of Act XI. of 1865.

Exercise by one Court, within limits of another of same grade, of powers of latter.

XIX. The Chief Commissioner may empower the presiding officer of any Court mentioned in Section 8 to exercise the powers, which might be exercised by the presiding officer of any other Court of the same grade, within the local limits of the jurisdiction of the latter Court.

Procedure.

Procedure when subject-matter of suit is situate within jurisdiction of different Court.

XX. Where a suit is brought for immovable property situate within the local jurisdiction of different Courts included in the same division, application for authority to proceed with the same shall be made to the Commissioner of the division.

If the said Courts belong to different divisions, the application shall be made to the Judicial Commissioner, through the Commissioner of the Division in which the Court wherein the suit was instituted is included.

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Chief Commissioner.

Presiding officer of Court not to try suit or appeal in which he is interested,

XXI. No presiding officer of any Court mentioned in Section 8 shall, unless with the consent of the parties or the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

but to transfer to superior Court,

When any such suit, appeal, or proceeding comes before any such presiding officer, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

which may try or transfer to other Court.

The superior Court shall thereupon try the cases itself, or transfer it for trial to any subordinate Court of competent jurirdistion as to the amount or value of the subject-matter of the suit.

Trial of appeal from order of Judicial Commissioner in other capacity or in which he is interested.

In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either

direct the Judicial Commissioner to try the case himself, or transfer it to the Court of the Recorder of Rangoon.

Appointment and removal.

Appointment of officers.

XXII. The presiding officers of all the Courts, except that of the Extra Assistant Commissioner of the third class, shall be appointed by the Governor-General in Council.

The Extra Assistant Commissioner of the third class shall be appointed and may be removed by the Chief Commissioner.

Suspension and removal of presiding officers.

XXIII. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor-General in Council.

The presiding officer of any Court, except the Courts of the Judicial Commissioner and the Recorder of Rangoon, may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor-General in Council.

Appointment of ministerial officers of Courts (1) and (2) grades.

XXIV. The ministerial officers of the Courts of grades (1) and (2) mentioned in Section 8 shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts shall be appointed by the presiding officers thereof;

Provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

Power to fine, suspend, or remove ministerial officers.

XXV. Every Court of the grades (1) and (2) mentioned in Section 8 may fine, in an amount not exceeding one month's salary, any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may, on appeal or otherwise, reverse or modify any such order; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (4), (5), and (6) mentioned in Section 8, and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but every such removal or suspension of an officer, whose salary exceeds fifty rupees per month, shall be subject to the review of the Judicial Commissioner.

Recovery of fines.

XXVI. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

General control of Chief Commissioner.

XXVII. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

Civil Appeals.

Time allowed for presenting appeals to Commissioner.

XXVIII. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed

against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

Transfer of civil appellate jurisdiction to Judicial Commissioner.

XXIX. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any appellate jurisdiction, which has been so transferred to the Judicial Commissioner, shall revert to the Commissioner from whom it was so transferred.

Confirmation of decision of Lower Court without summoning respondent.

XXX. The Appellate Court may confirm the decision of the Lower Court, without summoning the respondent, if, upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

Reference to Judicial Commissioner.

XXXI. When in the trial of any civil appeal the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner.

Procedure on such reference.

XXXII. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

Costs of reference.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

When Judicial Commissioner may receive second appeal.

XXXIII. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

When decision of first Appellate Court to be final.

XXXIV. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

Reference to Judicial Commissioner when decision of Lower Court confirmed on certain points.

XXXV. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling, and to submit it to the Judicial Commissioner.

Such application shall not be admitted, unless it is made within the

period and after payment of the fee prescribed by law for petitions of appeal.

If the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall make a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to make such statement, it shall record in writing its reasons for so refusing.

Procedure of Judicial Commissioner thereupon.

XXXVI. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present: the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

Reference by Judicial Commissioner to High Court.

XXXVII. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court of Fort William in Bengal, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

Procedure thereupon.

The procedure prescribed by Section 36 shall as nearly as possible be followed by the High Court in the disposal of references made under this section.

Provisions as to costs to apply.

XXXVIII. The provisions of Section 32 as to the adjustment of costs shall apply to cases referred under Sections 35 and 37.

PART II.

CHAPTER IV.

COURT OF THE RECORDER OF RANGOON.

The Court of the Recorder of Rangoon.

XXXIX. There shall be a Court to be called the Court of the Recorder of Rangoon.

Appointment of Recorder.

The Recorder shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor-General in Council.

Place of holding Court.

He shall hold his Court ordinarily in the town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court either at Akyab or Moulmain for the trial of civil suits or appeals transferred to him, or criminal cases in which European British subjects are concerned.

Seal to be used.

He shall use a seal of such form and dimensions as are for the time prescribed by the Chief Commissioner.

Civil Jurisdiction.

Limits of ordinary civil jurisdiction of Recorder.

XL. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may, from time to time, with the previous sanction of the Governor-General in Council, vary such limits.

Civil jurisdiction of Recorder.

XLI. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immovable property, the subject-matter of the suit is situate, or if, in all other cases, the defendant, at the time of the commencement of the suit, dwells or carries on business, or personally works for gain, within the limits mentioned or referred to in Section 4. Where such immovable property is situate partly within the local jurisdiction of the Recorder and partly within the jurisdiction of some other Court, the Chief Commissioner shall determine by what Court the suit shall be tried.

No appeal from Recorder's Court in certain cases.

XLII. There shall be no appeal from the decree or order of the Recorder, passed in any original suit or proceeding, where the amount or value of the subject-matter thereof does not exceed three thousand rupees.

When appeal to lie to High Court.

Where such amount or value exceeds three thousand rupees, and is less than the amount for which an appeal will lie to Her Majesty in Council under the law for the time being in force regulating such appeals, an appeal shall lie to the High Court of Judicature at Fort William in Bengal.

Assessors in civil suits.

XLIII. For the trial of civil suits under this Act, the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No officer of the Recorder's Court shall be appointed an assessor under this section.

Remuneration to assessor appointed at desire of suitor.

If any such assessor is appointed at the desire of the parties to a suit or either of them, such parties or party shall deposit such sum as the Recorder decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the case.

Miscellaneous jurisdiction.

XLIV. The Recorder shall, within the local limits of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge, under Act IV. of 1869 (*The Indian Divorce Act*), throughout British Burma.

Recorder's powers in respect of Small Cause Court, Rangoon.

XLV. The Recorder shall in respect of the Court of Small Causes in Rangoon, exercise the powers of a High Court.

Grant of new trial on application within given time.

XLVI. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immovable property, such new trial be applied for within three months from the date of the decision, and, in all other cases, if it be

applied for within thirty days from the date of the decision: Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications;

And review of judgment.

Provided also, that in any case in which the Recorder thinks it necessary to do so, he may, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

Security from applicant for either.

XLVII. If in any suit, any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, the Recorder may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.

XLVIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference has been made to the High Court, until the receipt of the order of that Court.

And decree may be passed contingent thereon; but, pending receipt, execution not to issue.

XLIX. Cases referred under Section 47 for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

Full bench to deal with cases referred.

L. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper officer of the Court, to the Recorder, who shall, on receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

And parties may appear in person, or by Advocate, &c. Transmission of judgment of High Court, and proceeding thereupon.

Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

LI. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any Court in British Burma other than the said Recorder's Court. Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

Transfer of suits to Recorder's Court.

Trial of such suits.

Disposal of suit where Recorder is interested.

LII. When any suit or proceeding comes before the Recorder of Rangoon, in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

Jurisdiction of Judicial Commissioner in cases transferred.

The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred, as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of Sections 46 to 50 inclusive shall apply to such cases.

Criminal Jurisdiction.

Recorder to exercise powers of Session Court within his civil jurisdiction.

LIII. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction. Provided that sentences of death passed by him as a Court of Session, shall be subject to the confirmation of the Special Court.

And powers of revision of High Court as to proceedings of Magistrates.

LIV. The Recorder shall exercise the powers, exercisable by a High Court as a Court of Revision, in respect of the proceedings of Magistrates within the local limits of his ordinary civil jurisdiction.

And powers of High Court as to European British subjects.

LV. The Recorder shall exercise the powers of a High Court for the trial of European British subjects, and all commitments of European British subjects on charges of offences committed within British Burma which would, according to the law for the time being relating to criminal procedure, be made to a High Court, shall be made to his Court.

Proceedings to be regulated by Code of Criminal Procedure.

LVI. The proceedings, on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure.

Liability of military officers to serve as jurors.

Provided that European officers in the military service, commissioned and non-commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

List of officers liable to serve.

The Officer Commanding the Station where the Court of Session is about to be held shall, when required, send in to the Court a list containing the names of all officers liable to serve.

Officer summoned not excusable except for urgent military duty.

The summons to any such officer to serve as a juror shall be sent through the Officer Commanding the Station; but no officer shall be excused from attendance, unless the Officer Commanding the Station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the Commanding Officer shall supply the name of some other officer for service upon the jury.

Sentence of death to be referred to High Court.

LVII. Sentences of death passed in the exercise of the powers conferred by Section 55 shall not be carried out without the confirmation of the High Court at Fort William in Bengal, to whom such sentences shall be referred.

Advocates.

Licensing of Advocates, and rules regarding qualifications and admission.

LVIII. No person shall be permitted to appear or act as the Advocate of any suitor in the Court of the Recorder, unless such person has been licensed thereto by the Recorder, either generally or specially; and the Recorder may make rules for the qualification and admission of proper persons to act as Advocates in his Court, and may from time to time cancel, vary, or add to any such rules. Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf or on behalf of a co-suitor. Provided that any person, who for the time being is an Advocate, Vakil, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an Advocate for any suitor in the Court of the Recorder.

Saving of agent for Secretary of State, &c.

And of Advocates, &c., of High Courts.

License may be suspended or withdrawn.

The Recordor may, for any sufficient reason, suspend or withdraw any license granted under this section. Any person aggrieved by such suspension or withdrawal may appeal to the High Court of Judicature at Fort William in Bengal.

Fees of Advocates, &c., subject to taxation.

LIX. The fees to be received by any Advocate, whether generally or specially licensed by the Recorder, or entitled to act in his Court as an Advocate for another person without a license, under Section 58 of this Act, shall at all times be subject to the control and taxation of the said Recorder, and no fees shall be recoverable by any Advocate except such fees as shall have been allowed by the Recorder on taxation.

Rules of the Court.

Provision for discharge of duties of Recorder in case of vacancy in his office.

LX. Upon the occurrence of any vacancy in the office of Recorder of Rangoon and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder; and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder, and to exercise the jurisdiction of the Recorder until some person shall have been appointed by the Governor-General in Council to fill or officiate in the office of the Recordor, and shall have entered upon the discharge of duties of such office, or until the Recorder shall have returned from such absence.

Appointment and removal of ministerial officers.

LXI. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the

suspension or removal of any officer drawing a salary of one hundred rupees or upwards shall be subject to the orders of the Chief Commissioner.

Registers, &c., to be kept, and returns to be submitted, by Recorder.

LXII. The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor-General in Council, be prescribed by the Chief Commissioner. The said Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

Power to make rules of practice.

LXIII. The Recorder may make and issue general rules for regulating the practice and procedure of his Court, and may prescribe forms for every proceeding therein for which he thinks that a form should be provided, and may from time to time alter any such rule or form; and the rules so made, and the forms so framed, shall be published in the local official Gazette, and after being so published shall be observed and used in the said Court: Provided that such rules and forms shall not be inconsistent with the Codes of Civil or Criminal Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner.

Rules for service and execution of process, and table of fees for same.

LXIV. The Recorder may, with the previous sanction of the Chief Commissioner, make, and may from time to time alter, rules to regulate the service and execution of the processes of his Court within the local limits of his jurisdiction; and may settle a table of fees to be allowed to the persons employed in such service or execution. All such rules and tables shall be published in the local official Gazette, and shall thenceforth have the force of law.

Publication of same.

Holidays and vacations.

LXV. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Rules before made to be in force until others made under this Act.

Rules heretofore made to regulate the service and execution of process under Act XXI. of 1863, or Act III. of 1866, shall be deemed to be in force until superseded by rules made under this Act.

CHAPTER V.

Special Court.

Constitution of Special Court.

LXVI. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

Precedence in Special Court.

LXVII. When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

Use of seal.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

Rules for Special Court.

LXVIII. The Judicial Commissioner and the Recorder of Rangoon may, in concurrence, and subject to the sanction of the Chief Commissioner, frame rules of practice for regulating the times and places of the sittings of the Special Court.

Appeals from Judge of Moulmain.

LXIX. Appeals from orders and decrees passed by the Judge of the town of Moulmain in civil suits and proceedings shall, where an appeal is allowed by law, be heard and determined by the Special Court. Such appeals shall be presented in the Court of the Judicial Commissioner.

Judicial Commissioner and Recorder may sit as Special Court at the request of either.

LXX. If, in any civil suit or appeal, or in any criminal case or appeal, pending in the Court of the Judicial Commissioner or of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the Judicial Commissioner and the Recorder of Rangoon shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case.

Chief Commissioner may direct cases to be tried by Special Court.

LXXI. The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or of the Recorder of Rangoon, shall be tried before the Special Court.

Decree of Special Court to be deemed a decree of original Court.

LXXII. Any decree or sentence passed by a Special Court as above constituted, on a reference made under Section 70 or in a case tried under Section 71, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

Appeals from Recorder of Rangoon in criminal cases.

LXXIII. Any person convicted on a trial held by the Recorder of Rangoon as a Court of Session, may, where an appeal is allowed by law, appeal to the Special Court. Such appeal shall be presented in the Court of the said Recorder.

Powers of Court of Reference exercisable by Special Court.

LXXIV. The Special Court shall exercise the powers, exercisable by a High Court as a Court of Reference, in respect of sentences of death passed by the Recorder of Rangoon, in cases tried by him as a Court of Session.

Rules as to finding of Special Court in case of difference of opinion arising.

LXXV. Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises in such Court, the following rules shall be observed:—

(1.)—If the difference of opinion arise in a civil appeal, and if either the Judicial Commissioner or Recorder of Rangoon concur in the ruling of the Court from whose decision the appeal has been made, such ruling

shall be upheld. If the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder of Rangoon be of opinion that the point should be referred to the High Court of Judicature at Fort William in Bengal, they shall state the point as to which they differ, and forward the statement with their respective opinions thereon to the High Court.

(2.)—In all other cases, the point shall be referred to the High Court with a similar statement of opinions.

Decree may be passed contingent on opinion of High Court, but execution not to issue.

LXXVI. Where such reference is in a civil suit, the Special Court may proceed in the case notwithstanding such reference, and may determine the suit contingently on the opinion of the said High Court on the point referred; but no final execution shall be issued in any civil case in which a reference is made, until the receipt of such opinion.

Procedure of High Court on reference.

LXXVII. The High Court shall proceed to determine the point referred, as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear, either personally or by agent. A copy of the determination of the High Court shall be sent to the Court from which the case was referred to the Special Court, and such Court shall dispose of the case accordingly.

Costs of reference.

The costs, if any, consequent on the reference of the case for the opinion of the High Court, shall be costs in the suit or appeal.

CHAPTER VI.

MISCELLANEOUS.

Amendment of Section 7, Act XV. of 1869.

LXXVIII. Instead of the last paragraph of Section 7 of Act XV. of 1869, the following shall be read :—

'For the purposes of this Act, every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders, under this section or Sections 3 or 4, and may also issue commissions under Part III. of this Act, in any town in British Burma.'

Saving of trials by Commissioner of Akyab as a Court of Session.

LXXIX. No trial heretofore had by the Commissioner of Akyab as a Court of Session shall be deemed to have been invalid merely on the ground that such trial was not by jury.

SCHEDULE.

Number and year.	Title.	Extent of repeal.
VIII. of 1859 ...	An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.	Sections 372, 373, and 374, so far as they relate to British Burma.
XXIII. of 1861 ...	An Act to amend Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)*.	Sections 23, 25, and 27 to 34, both inclusive, so far as they relate to British Burma.
I. of 1863 ...	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burma, and to provide for the extension of certain Acts to the said Territory.	The whole.
XXI. of 1863 ...	An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmain in British Burma, and to establish Courts of Small Causes in the said Towns.	The whole.
XXIV. of 1863 ...	An Act to amend Act I. of 1863 *(to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burma, and to provide for the extension of certain Acts to the said Territory)*.	The whole.
III. of 1866 ..	An Act to confer certain increased powers on the Registrars of the Recorders' Courts in British Burma, and for other purposes.	The whole.

ACT No. VIII. OF 1872.

THE INDIAN INCOME TAX ACT.

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2. Interpretation.
3. Exemptions from Act.
4. Power to exempt from Act.

PART II.

DUTIES ON OFFICES.

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6. Exemption of incomes less than Rs 83-5-4 per mensem.
7. Deduction in case of Government officials and pensioners.
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Duties on Profits of Companies.

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Duties on interest on Government Securities.

14. Duty on interest.
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18. Trustees or agents of persons incapacitated or non-resident to furnish statements of income.
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21. Owners of lands and houses occupying them. Rules for assessing income from land.
22. Persons assessed under Part V. of Act XII. of 1871 on incomes of 1,000 rupees and upwards to be assessed at same amount. Notice requiring returns.
23. Return how made.
24. Lists of lodgers and employés.
25. Collector to determine persons chargeable.
26. Assessment to be on past year's income. Assessment when assessee chargeable within year.
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30. Petition against assessment under Part V. Proviso. Form and verification.
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Copies of petition and order exempt from fees. Return of fees and excess.
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Payment and Recovery of Duties.

35. Tax when payable. Payment by instalments.
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38. Treasurers, &c., failing to make payments or deliver returns.
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39. False statement in declaration, list, or petition.
40. Prosecution to be at instance of Collector.
41. Sections 193 and 228 of Penal Code to apply to proceedings.

PART IX.

Miscellaneous.

42. Bar of suits in Civil Courts.
43. Exercise of powers of Collector and Commissioner.
44. Service of notices.
45. Power to declare principal place of business. Power to declare residents.
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Schedule.—Form of petition under Section 30.

THE INDIAN INCOME TAX ACT.

An Act for the purpose of imposing duties on incomes arising from offices, property, professions, and trades.

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. I. This Act may be called 'The Indian Income Tax Act.'

Local extent. It extends to the whole of British India.

Commencement and continuance of Act. It shall be deemed to have come into force on the first day of April 1872, and it shall cease to be in force on the thirty-first day of March 1873, except as to taxes payable in respect of the period previous to the said thirty-first day of March 1873, and as to penalties incurred under this Act.

The references made in the Court Fees Act, Schedule II., to the Indian Income Tax Act shall be deemed to be made to this Act.

Interpretation. II. In this Act—unless there be something repugnant in the subject or context—

Income. Income means income and profits accruing and arising in British India.

Magistrate. Magistrate means, till the 1st day of September 1872,

any person exercising the powers of a Magistrate, or of a subordinate Magistrate of the first class,

and after the said day,

any Magistrate of the first or second class; and it includes a Magistrate of Police and a Justice of the Peace.

Company. Company means an Association, carrying on business in British India, whose stock or funds is or are divided into shares, and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not.

Person. Person includes a firm and a Hindú undivided family.

Defaulter. Defaulter includes a Company or firm making default under this Act.

Collector. In the case of any firm or Company, or Municipal or other public body or Association not being a Company, Collector means the Collector of land revenue of the place or district at or in which its principal place of business in British India is situate. And, in the case of any person or Hindú undivided family chargeable under this Act, Collector means the Collector of land revenue of the place or district at or in which such person or family resides.

Exemptions from Act. III. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in civil employment, when such pay and allowances do not exceed five hundred rupees per mensem;

or to any movable or immovable property solely employed for religious or charitable public purposes.

And no member of a firm or of a Hindù undivided family, which is for the time being chargeable under this Act, shall, as such, be chargeable under this Act.

Power to exempt from Act.

IV. The Governor-General in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income of any tribe or class of persons in British India.

The Governor-General in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India.*

PART II.

Duties on Offices.

Duties on offices.

V. A duty of two pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company, or a Municipal or other public body or Association not being a Company,

and upon every salary, annuity, or pension paid in British India by Government, or by a Company, or by a Municipal or other public body or Association not being a Company, to any person residing in British India, or serving on board a ship plying to and from British Indian ports, whether on account of himself or another person.

Exemption of incomes less than Rs. 83-5-4 per mensem.

VI. No income amounting to less than eighty-three rupees five annas and four pies per mensem shall be chargeable under this Part.

Deduction in case of Government officials and pensioners.

VII. In the case of every person holding any paid office, employment, or commission under Her Majesty or under the Government of India, or under any local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity, or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

Deductions in case of servants and pensioners of Companies and Municipalities

VIII. In the case of every person holding a paid employment under, or receiving any annuity or pension from any Company or any Municipal or other public body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity, or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Payment to Government.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government from time to time directs, the amount of such deductions, and shall be answerable to such Government for such payment.

Indemnity.

Every Company, public body or Association, Treasurer or other officer as aforesaid, is hereby indemnified for all deductions and payments made in pursuance of this Part.

Annual return by Treasurer, &c.

The Treasurer, Secertary, or principal Agent or Manager of every such Company and public body or Association shall prepare, and on or before the fifteenth day of May next deliver to the Collector, in such form as may be prescribed by the Governor-General in Council, a return in writing showing the name of every person holding at the date of the said return a paid employment under, or receiving a pension or annuity from, such Company or body or Association, whose pay or pension or annuity as such amounts to eighty-three rupees five annas and four pies per mensem or upwards, together with the salaries, annuities, or pensions payable by the Company or public body or Association to all such persons respectively.

Subsequent deduction of duty omitted to be levied.

IX. Whenever the duty leviable under this Part in any month, is not deducted at the time of payment in that month from the pay, annuity, or pension chargeable therewith, it shall be deducted from such pay, annuity, or pension at some subsequent time of payment.

PART III.

Duties on Profits of Companies.

Shipping Companies.

X. The Treasurer, Secretary, or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies in the rupee;

Other Companies.

and, in the case of every other Company, pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies for every rupee;

Statement of result of accounts.

and shall prepare, and on or before the fifteenth day of May next deliver to the Collector, a statement in writing, signed by him, showing the result of such accounts.

Annual return of nett profits.

XI. If in the case of any Company no such accounts have been made up within the year ending on the thirty-first day of March 1872, the Treasurer, Secretary, or principal Agent or Manager of such Company shall prepare, and on or before the fifteenth day of May next deliver to the Collector, a return in writing, signed by him, and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

Power to require officers of Companies to attend and produce accounts.

XII. Whenever the Collector has reason to believe that any statement or return mentioned in Section 10 or 11 is incorrect or incomplete, he may cause a notice to be served on the Treasurer, Secretary, Agent, or Manager by whom such statement or return was delivered, requiring him, on or before a day to be mentioned in the notice, to attend at the Collector's office and to produce for the inspection of

the Collector such of the accounts of the Company as refer to the year mentioned in Section 10 or 11, as the case may be, and as are in the possession or power of such Treasurer, Secretary, Agent, or Manager.

The Collector shall thereupon make an order, determining the amount at which the Company shall be assessed under this Part and the day on which such amount shall be paid; and, subject to the provisions hereinafter contained, such sum shall be payable accordingly.

Indemnity.

XIII. Every such Treasurer, Secretary, Agent, or Manager is hereby indemnified for all payments made in pursuance of Section 10 or Section 11.

PART IV.

Duties on Interest on Government Securities.

Duty on interest.

XIV. A yearly duty of two pies for every rupee shall be levied upon all interest on securities of the Government of India becoming due on or after the first day of April 1872.

Deduction of duty.

XV. Every person empowered to pay such interest shall deduct the duty at the place where the interest is paid,

and shall, as soon as may be after making such deduction, pay the same to the credit of the Government of India, or as such Government from time to time directs :

Proviso.

Provided that no such duty shall be deducted from the interest on any such security, where the owner thereof produces a certificate signed by the Collector that his annual income, including such interest, is less than one thousand rupees.

PART V.

Duties on all other Income.

Duty on income not charged under Parts II., III., and IV.

XVI. A yearly duty of two pies for every rupee shall be levied upon all incomes of one thousand rupees per annum or upwards, not chargeable under Part II., Part III., or Part IV. of this Act.

Trustees, guardians, and committees to be charged.

XVII. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of Engalnd, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic, or idiot resides in British India or not, shall, if the infant, married woman, lunatic, or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Non-residents to be charged in names of their agents.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income.

XVIII. Every trustee, guardian, curator, committee, or agent shall, when required by the Collector, deliver a statement, signed by him, of the amount of the income in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot, or non-resident, together with a declaration of the truth of the statement.

The Collector shall have power to serve a notice upon any person whom he has reason to believe to be a trustee, guardian, curator, committee, or agent, requiring him to deliver, on or before a day to be specified in the notice, a statement, signed by him, of the names of the persons for or of whom he is trustee, guardian, curator, committee, or agent.

Receivers, Managers, Courts of Wards, Administrators-General, and Official Trustees.

XIX. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras, and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income officially in their possession or under their control.

Power to retain duties charged on Trustees, &c.

XX. When any trustee, guardian, curator, committee, or agent is assessed under this Act in such capacity;

or when any receiver or manager appointed by any Court, any Court of Wards, Administrator-General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee, or agent, or as much receiver, manager, Court of Wards, Administrators-General, or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Indemnity.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Occupying owners of lands and houses.

XXI. Owners of lands or houses, occupying the same, shall be chargeable in respect of the annual value thereof at nine-tenths of the full rent at which such lands or houses are worth to be let for the year.

Rules for assessing income from land.

The local Government may, with the sanction of the Governor-General in Council, prescribe, for the whole or any part of the territories subject to such local Government, special rules for the assessment of incomes derived from land, at an amount bearing a fixed proportion to the revenue assessed thereon.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Persons assessed under Part V. of Act XII. of 1871, on incomes of 1,000 rupees and upwards, to be assessed at same amount.

XXII. Every person chargeable under this Part shall, if he was assessed under Part V. of Act XII. of 1871 on an income of 1,000 rupees or upwards, be assessed at the same amount as that at which he was assessed under the said Act; but any such person may apply, under the provisions of Part VI., to have such assessment reduced or cancelled.

Notice requiring returns.

In the case of every person chargeable under this Part, to whom the provisions of the last preceding paragraph do not apply, and whose annual income is, in the Collector's opinion, four thousand rupees or upwards, the Collector shall,

and in the case of every such person whose annual income is, in the Collector's opinion, less than four thousand rupees, the Collector may

cause a notice to be served on him, requiring him to fill in a return of his income during one year, ending on the day of the year immediately preceding the year of assessment on which his accounts have been usually made up, or on the thirty-first day of March, 1872, and to state in such return the period during which such income has actually accrued.

Such notice shall be in the form to be prescribed by the Governor-General in Council, and shall specify the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

Return how made.

XXIII. Every person on whom such notice is served, shall send to or deliver at the Collector's office the return duly filled and signed by him.

A declaration shall be added by such person at the foot of the return, (*a*) that the income stated therein is truly estimated on all the sources therein mentioned, (*b*) that it has actually accrued within the period therein stated, and (*c*) that he has no other source of income.

List of lodgers and employés.

XXIV. Every person, when required so to do by a notice in the form to be prescribed by the Governor-General in Council, shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to eighty-three rupees five annas and four pies per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable under this Act to be assessed, and who desires to be so assessed at such place.

Such list shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

Collector to determine what persons chargeable.

XXV. The Collector shall, from time to time, determine what persons are chargeable under this Part, and the amount at which every such person shall be assessed;

and in making such assessment, income exempted under Section 6 shall be treated as chargeable under this Part.

Assessment to be made on past year's income.

XXVI. Every such assessment shall be made upon the full amount of such person's income during the year ending on the day, of the year next before the year of assessment, on which his accounts have been usually made up, or on the thirty-first day of March, 1872.

Assessment when assessee becomes chargeable within year.

In the case of a person for the first time becoming chargeable under this Part within the year of assessment, or within the year next before such year, the assessment shall be made according to an average of his income for such period as the Collector, under the circumstances, directs.

Notice to persons chargeable.

XXVII. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

(1.)—The name and the profession, trade, or other source of the income of such person or in respect of which he is chargeable;

(2.)—The year or portion of the year for which the duty is to be paid;

(3.)—The place or places, district or districts, where such income accrues; and

(4.)—The amount to be paid;

and requiring him, within 15 days from the date of service, either to pay such amount or to apply to the Collector to have the assessment reduced or cancelled.

Officer to give receipts.

XXVIII. Such amount shall be paid to the Collector, who shall give a receipt for such payment to the person making the same:

Provided that, if such income accrues at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall, from time to time, empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

XXIX. Every such receipt shall specify—

(1.)—The name and source or sources of the income of the person by or on whose behalf the duty is paid;

(2.)—The year or portion of the year for which the duty is paid;

(3.)—The amount paid, and the date of payment; and

(4.)—The place or places, district or districts, where the income accrues;

and shall be admissible as evidence of all matters contained therein.

PART VI.

PETITIONS AND APPEALS AGAINST ASSESSMENTS.

Petition against assessment under Part V.

XXX. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed under Part V., may apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled.

Such petition shall ordinarily be presented within 15 days from the date of the service of the notice mentioned in Section 27. But if the Collector is satisfied that the objector has not received such notice, the petition may be presented within 15 days from the day on which, in the Collector's opinion, he became aware of the assessment.

Provided that no person, served with a notice under Section 22, shall be entitled to apply by petition under this section, unless he has made the return required in such notice on or before the day therein mentioned, or unless he satisfies the Collector that he had a sufficient excuse for not making such return.

Proviso.

The petition shall be in the form contained in the schedule hereto annexed, or as near thereto as circumstances admit; and the statements therein contained shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints.

Form and verification of petition.

XXXI. The Collector shall fix a day and place for the hearing of the petition, and, on the day and at the place so fixed, or on the day and at the place (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Hearing of petition.

Such order may be in favor of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition, or reject the petition and enhance the petitioner's assessment, the petitioner shall, within 15 days from the passing of the order, pay the amount mentioned in the said notice or in the order of enhancement, as the case may be.

XXXII. Any person, dissatisfied with any order under Section 12 or Section 31, may, within 15 days from the date thereof, on payment of the sum payable under such order, present a petition of appeal to the Commissioner of Revenue of the Division, whose order upon such appeal shall be final.

Appeal to Commissioner from order under Section 12 or Section 31.

The time requisite for obtaining a copy of the order shall be excluded in computing the said period of 15 days.

The order of such Commissioner shall be final. It may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the assessment to an amount to be specified in the decision.

If the order rejects the petition and enhances the assessment, the petitioner shall, within one week from the passing of the order, pay the amount mentioned in the order of enhancement.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, and a copy of the Collector's order thereon, and a list of the documents, if any, on which the appellant relies.

Documents to accompany appeal.

Neither of such copies shall be chargeable under the Court Fees Act.

Copies of petition and order exempt from fees.

When the decision on such appeal is in favour of the petitioner, the value of the fee on his petition of appeal, and (where he has presented a petition to the Collector) the fee on such petition, together with the excess paid by him, or (when the decision is that the petitioner, or the Com-

Return of fees and excess.

pany which he represents, is not chargable under this Act) the whole sum so paid, shall at once be refunded.

Power to summon persons to give necessary information.

XXXIII. The Collector or Commissioner may summon any person, whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner, or the Company which he represents, should be assessed; and may examine on oath the person so summoned and the petitioner; and may require each of them to produce any documents in his possession or power relating to the sources of the income in question.

Power to issue fresh notice.

XXXIV. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income, not specified in the receipt granted to him under Section 28 has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source.

The provisions contained in Sections 27 to 33 (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART VII.

Payment and Recovery of Duties.

Tax when payable.

XXXV. All duties under this Act, except when they are deducted under Sections 7, 8 or 15 shall be payable on the first day of May 1872:

Payment by instalments.

Provided that the amount so payable may be paid by two equal instalments: the first instalment to be paid on some day not later than 15 days after service of the notice mentioned in Section 27 upon the person paying the same, and the second instalment on the first day of October next.

Recovery under revenue law, or Code of Civil Procedure.

XXXVI. In any case of default under this Act, the Collector may, if a notice has been served on the defaulter requiring him to pay within 15 days from the date of the service the amount of the duty or instalment due by him under this Act, either recover a sum not exceeding double the amount as if it were an arrear of land-revenue,

or pass an order that a sum, not exceeding double the amount of such duty or instalment, shall be recovered from such defaulter.

Every such order shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and such order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters:—

(*a*) sales in execution of decrees;

(*b*) arrests in execution of decrees for money;

(*c*) execution of decrees by imprisonment;

(*d*) claims to attached property; and

(*e*) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the moneys

mentioned in such order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be executed by the Collector, by whom such order has been made or to whom a copy thereof has been transmitted for execution according to the provisions of the said Code, Section 286.

Provided that where any person has presented a petition under Section 30, such sum shall not be recoverable from him, unless, within 15 days from the passing of the order thereon, he fails to pay the amount, if any, required by such order.

On the recovery of such sum from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

Amendment of assessment.

XXXVII. If, during or within two months from the end of the year for which any assessment under Part V. has been made, the Company or person assessed proves to the satisfaction of the Collector, that the nett profits or income of such Company or person during such year fell short of the sum so assessed, the Collector may cause the assessment made for such year to be amended, as the case requires, and if the sum assessed has been paid, may refund the sum overpaid.

In case any Company or person, assessed under Part III. or Part V., ceases to carry on the trade or business, in respect whereof such assessment was made; or if any such person dies or becomes insolvent before the end of the year for which the assessment was made; or if any such Company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made,

such Company or person, or its or his representative in interest, may apply to the Collector within three months after the end of such year, and on proof thereof to his satisfaction, the Collector shall amend the assessment as the case may require, and give such relief to the Company or person charged as is just, and in cases requiring it, the Collector shall refund such sum as has been overpaid on the assessment amended or vacated.

PART VIII.

PENALTIES.

Treasurers, &c., failing to make payments or deliver returns.

Trustees, &c., failing to deliver statements or declarations.

XXXVIII. Every Treasurer, Secretary, Agent, Manager or other person, failing to make any payment or deduction, or to prepare and deliver in due time any statement or return, or to produce any accounts, required by Sections 8, 10, 11 or 12, and every trustee, and guardian, curator, committee or agent, failing to deliver any statement or declaration required by Section 18, shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

False statement in declaration, list or petition.

XXXIX. Whoever makes a statement in any declaration or list made or delivered under Section 23 or 24, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in Section 177 of the Indian Penal Code.

Whoever makes a statement in any petition, presented under Section 30, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Prosecution to be at instance of Collector.

XL. No person shall be proceeded against for any offence under Section 38 or Section 39 except at the instance of the Collector.

Sections 193 and 228 of Penal Code to apply.

XLI. In Sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

PART IX.

MISCELLANEOUS.

Bar of suits in Civil Court.

XLII. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Exercise of powers of Collector and Commissioner.

XLIII. All or any of the powers and duties, conferred and imposed by this Act on a Collector and on a Commissioner of Revenue, may be exercised and performed by such other officers or persons as the local Government, from time to time, appoints in this behalf.

Service of notices.

XLIV. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm or a Hindu undivided family, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named, ordinarily dwells or carries on business.

Power to declare principal place of business, or residence, and principal Agent, &c.

XLV. When any Company or firm has several places of business in the territories subject to different local Governments, the Governor-General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

Power to declare residence.

When any person has several places of residence in the territories subject to different local Governments, the Governor-General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

The powers given by this section may be delegated to and exercised by such officers as the Governor-General in Council or the local Government, as the case may be, from time to time, appoints in this behalf.

Power to prescribe forms and make rules.

XLVI. The Governor-General in Council may, from time to time,

(*a*) prescribe forms for the returns, notices and lists hereinbefore mentioned,

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and

(*c*) delegate to any local Government the powers given by this section, clause (*b*), so far as regards the territories subject to such Government.

SCHEDULE.

Form of Petition under Section 30.

Stamp eight annas.

TO THE COLLECTOR OF

The *day of* 187 .

The petition of *A. B.* of

SHEWETH—

1.—That, under the Indian Income Tax Act, your petitioner has been assessed in the sum of *twenty-seven* rupees for the year commencing the first day of April, 1872.

2.—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other sources of income or profits, and the place or places at which such income or profits accrues or arise*] for the year ending the thirty-first day of March last were rupees , as will appear from the documents of which a list is presented herewith.

3.—That such income and profits actually accrued and arose during a period of months and days. [*Here state the exact number of months and days in which the income and profits accrued and arose.*]

4.—That during the said year your petitioner had no other income or profits.

Your petitioner, therefore, prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [*or* that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded.]

(Signed) *A. B.*

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

ACT No. IX. OF 1872.

THE INDIAN CONTRACT ACT.

Preamble.

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21. Effect of mistakes as to law.
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THE INDIAN CONTRACT ACT.

Preamble.

Whereas it is expedient to define and amend certain parts of the law relating to contracts; It is hereby enacted as follows :—

PRELIMINARY.

Short title.

I. This Act may be called "The Indian Contract Act, 1872."

Extent.

It extends to the whole of British India,

Commencement.

And it shall come into force on the first day of September 1872.

Enactments repealed.

The enactments mentioned in the schedule hereto are repealed to the extent specified in the third column thereof; but nothing herein contained shall affect the provisions of any Statute, Act, or Regulation not hereby expressly repealed, nor any usage or custom of trade, nor any incident of any contract, not inconsistent with the provisions of this Act.

Interpretation-clause.

II. In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:—

'Proposal.'

(*a.*)—When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal:

'Promise.'

(*b.*)—When the person, to whom the proposal is made, signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise:

'Promisor' and 'promisee.'

(*c.*)—The person making the proposal is called the 'promisor,' and the person accepting the proposal is called the 'promisee:'

'Consideration.'

(*d.*)—When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise:

'Agreement.'

(*e.*)—Every promise and every set of promises, forming the consideration for each other, is an agreement:

'Reciprocal promises.'

(*f.*)—Promises which form the consideration or part of the consideration for each other, are called reciprocal promises:

'Void agreement.'

(*g.*)—An agreement not enforceable by law is said to be void:

'Contract.'

(*h.*)—An agreement enforceable by law is a contract;

'Voidable contract.'

(*i.*)—An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract:

'Void contract.'

(*j.*)—A contract which ceases to be enforceable by law becomes void, when it ceases to be enforceable:

CHAPTER I.

Of the Communication, Acceptance and Revocation of Proposals.

Communication, acceptance and revocation of proposals.

III. The communication of proposals, the acceptance of proposals, and the revocation of proposals and acceptances, respectively, are deemed to be made by any act or omission of the party proposing, accepting or revoking, by which he intends to communicate such proposal, acceptance or revocation, or which has the effect of communicating it.

Communication when complete.

IV. The communication of a proposal is complete, when it comes to the knowledge of the person to whom it is made.

The communication of an acceptance is complete,

as against the proposer, when it is put in a course of transmission to him, so as to be out of the power of the acceptor;

as against the acceptor, when it comes to the knowledge of the proposer.

The communication of a revocation is complete,

as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it;

as against the person to whom it is made, when it comes to his knowledge.

Illustrations.

(*a*.) A proposes, by letter, to sell a house to B at a certain price.

The communication of the proposal is complete when B receives the letter.

(*b*.) B accepts A's proposal by a letter sent by post.

The communication of the acceptance is complete

as against A when the letter is posted;

as against B, when the letter is received by A.

(*c*.) A revokes his proposal by telegram.

The revocation is complete as against A, when the telegram is despatched. It is complete as against B when B receives it.

B revokes his acceptance by telegram. B's revocation is complete as against B, when the telegram is despatched; and as against A when it reaches him.

Revocation of proposals and acceptances.

V. A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards.

An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards.

Illustration.

A proposes, by a letter sent by post, to sell his house to B.

B accepts the proposal by a letter sent by post.

A may revoke his proposal at any time before, or at the moment when, B posts his letter of acceptances, but not afterwards.

B may revoke his acceptances at any time before, or at the moment when, the letter communicating it reaches A, but not afterwards.

Revocation how made.

VI. A proposal is revoked—

(1) by the communication of notice of revocation by the proposer to the other party;

(2) by the lapse of the time prescribed in such proposal for its acceptance, or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance;

(3) by the failure of the acceptor to fulfil a condition precedent to acceptance; or

(4) by the death or insanity of the proposer, if the fact of his death or insanity comes to the knowledge of the acceptor before acceptance.

Acceptance must be absolute.

VII. In order to convert a proposal into a promise, the acceptance must—

(1) be absolute and unqualified;

(2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted. If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and not otherwise; but, if he fails to do so, he accepts the acceptance.

Acceptance by performing conditions on receiving consideration.

VIII. Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, is an acceptance of the proposal.

Promises, express and implied.

IX. In so far as the proposal or acceptance of any promise is made in words, the promise is said to be express. In so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied.

CHAPTER II.

Of Contracts, voidable Contracts, and void Agreements.

What agreements are contracts.

X. All agreements are contracts, if they are made by the free consent of parties competent to contract, for a lawful consideration with a lawful object, and are not hereby expressly declared to be void.

Nothing herein contained shall affect any law in force in British India, and not hereby expressly repealed, by which any contract is required to be made in writing or in the presence of witnesses, or any law relating to the registration of documents.

Who are competent to contract.

XI. Every person is competent to contract, who is of the age of majority according to the law to which he is subject, and who is of sound mind and is not disqualified from contracting by any law to which he is subject.

What is a sound mind for the purposes of contracting.

XII. A person is said to be of sound mind for the purpose of making a contract, if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests.

A person who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind.

A person who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

Illustrations.

(*a.*) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals.

(*b.*) A sane man, who is delirious from fever, or who is so drunk that he cannot understand the terms of a contract, or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or drunkenness lasts.

'Consent' defined.

XIII. Two or more persons are said to consent, when they agree upon the same thing in the same sense.

'Free consent' defined.

XIV. Consent is said to be free, when it is not caused by—

(1) coercion, as defined in Section 15, or
(2) undue influence, as defined in Section 16, or
(3) fraud, as defined in Section 17, or
(4) misrepresentation, as defined in Section 18, or
(5) mistake, subject to the provisions of Sections 20, 21 and 22.

Consent is said to be so caused, when it would not have been given but for the existence of such coercion, undue influence, fraud, misrepresentation or mistake.

'Coercion' defined.

XV. Coercion is the committing, or threatening to commit, any act forbidden by the Indian Penal Code, or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

Explanation.—It is immaterial whether the Indian Penal Code is or is not in force in the place where the coercion is employed.

Illustration.

A, on board an English ship on the high seas, causes B to enter into an agreement, by an act amounting to criminal intimidation under the Indian Penal Code;

A afterwards sues B for breach of contract at Calcutta.

A has employed coercion, although his act is not an offence by the law of England, and although Section 506 of the Indian Penal Code was not in force at the time when, or place where, the act was done.

'Undue influence' defined.

XVI. Undue influence is said to be employed in the following cases:—

(1.)—When a person in whom confidence is reposed by another, or who holds a real or apparent authority over that other, makes use of such confidence or authority for the purpose of obtaining an advantage over that other, which, but for such confidence or authority, he could not have obtained:

(2.)—When a person, whose mind is enfeebled by old age, illness, or mental or bodily distress, is so treated as to make him consent to that, to which, but for such treatment, he would not have consented, although such treatment may not amount to coercion.

'Fraud' defined.

XVII. Fraud means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:

(1.)—The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

(2.)—The active concealment of a fact by one having knowledge or belief of the fact;

(3.)—A promise made without any intention of performing it;

(4.)—Any other act fitted to deceive;

(5.)—Any such act or omission as the law specially declares to be fraudulent.

Explanation.—Mere silence as to facts, likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is in itself equivalent to speech.

Illustrations.

(a.) A sells by auction to B a horse, which A knows to be unsound. A says nothing to B about the horse's unsoundness. This is not fraud in A.

(b.) B is A's daughter and has just come of age. Here, the relation between the parties would make it A's duty to tell B if the horse is unsound.

(c.) B says to A, "If you do not deny it, I shall assume that the horse is sound;" A says nothing. Here A's silence is equivalent to speech.

(d.) A and B, being traders, enter upon a contract. A has private information of a change in prices which would affect B's willingness to proceed with the contract. A is not bound to inform B.

'Misrepresentation' defined.

XVIII. Misrepresentation means and includes—

(1.)—The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

(2.)—Any breach of duty, which, without an intent to deceive, gains an advantage to the person committing it or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him;

(3.)—Causing, however innocently, a party to an agreement, to make a mistake as to the substance of the thing, which is the subject of the agreement.

Voidability of agreements without free consent.

XIX. When consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.

A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.

Exception.—If such consent was caused by misrepresentation or by silence, fraudulent within the meaning of Section 17, the contract nevertheless is not voidable, if the party, whose consent was so caused, had the means of discovering the truth with ordinary diligence.

Explanation.—A fraud or misrepresentation which did not cause the consent to a contract of the party on whom such fraud was practised, or to whom such misrepresentation was made, does not render a contract voidable.

Illustrations.

(*a.*) A, intending to deceive B, falsely represents that five hundred maunds of indigo are made annually at A's factory, and thereby induces B to buy the factory. The contract is voidable at the option of B.

(*b.*) A, by a misrepresentation, leads B erroneously to believe that five hundred maunds of indigo are made annually at A's factory. B examines the accounts of the factory, which show that only four hundred maunds of indigo have been made. After this B buys the factory. The contract is not voidable on account of A's misrepresentation.

(*c.*) A fraudulently informs B that A's estate is free from incumbrance. B thereupon buys the estate. The estate is subject to a mortgage. B may either avoid the contract, or may insist on its being carried out and the mortgage debt redeemed.

(*d.*) B, having discoverd a vein of ore on the estate of A, adopts means to conceal, and does conceal, the existence of the ore from A. Through A's ignorance B is enabled to buy the estate at an under-value. The contract is voidable at the option of A.

(*e.*) A is entitled to succeed to an estate at the death of B; B dies; C, having received intelligence of B's death, prevents the intelligence reaching A, and thus induces A to sell him his interest in the estate. The sale is voidable at the option of A.

Agreement void, where both parties are under mistake as to matter of fact.

XX. Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the argument is void.

Explanation.—An erroneous opinion as to the value of the thing which forms the subject-matter of the agreement, is not to be deemed a mistake as to a matter of fact.

Illustrations.

(*a.*) A agrees to sell to B a specific cargo of goods supposed to be on its way from England to Bombay. It turns out that, before the day of the bargain, the ship conveying the cargo had been cast away and the goods lost. Neither party was aware of these facts. The agreement is void.

(*b.*) A agrees to buy from B a certain horse. It turns out that the horse was dead at the time of the bargain, though neither party was aware of the fact. The agreement is void.

(*c.*) A, being entitled to an estate for the life of B, agrees to sell it to C. B was dead at the time of the agreement, but both parties were ignorant of the fact. The agreement is void.

Effect of mistakes as to law.

XXI. A contract is not voidable because it was caused by a mistake as to any law in force in British India; but a mistake as to a law not in force in British India has the same effect as a mistake of fact.

Illustrations.

A and B make a contract grounded on the erroneous belief that a particular debt is barred by the Indian Law of Limitation; the contract is not voidable.

A and B make a contract grounded on an erroneous belief as to the law regulating bills of exchange in France; the contract is voidable.

Contract not voidable merely because of mistake of one party as to matter of fact.

XXII. A contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact.

What considerations and objects are lawful, and what not.

XXIII. The consideration or object of an agreement is lawful, unless—

it is forbidden by law; or

is of such a nature that, if permitted, it would defeat the provisions of any law; or

is fraudulent; or

involves or implies injury to the person or property of another; or the Court regards it as immoral or opposed to public policy.

In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful, is void.

Illustrations.

(*a.*) A agrees to sell his house to B for 10,000 rupees. Here, B's promise to pay the sum of 10,000 rupees is the consideration for A's promise to sell the house, and A's promise to sell the house is the consideration for B's promise to pay the 10,000 rupees. These are lawful considerations.

(*b.*) A promises to pay B 1,000 rupees at the end of six months, if C, who owes that sum to B, fails to pay it. B promises to grant time to C accordingly. Here, the promise of each party is the consideration for the promise of the other party, and they are lawful considerations.

(*c.*) A promises, for a certain sum paid to him by B, to make good to B the value of his ship if it is wrecked on a certain voyage. Here, A's promise is the consideration for B's payment, and B's payment is the consideration for A's promise, and these are lawful considerations.

(*d.*) A promises to maintain B's child, and B promises to pay A 1,000 rupees yearly for the purpose. Here, the promise of each party is the consideration for the promise of the other party. They are lawful considerations.

(*e.*) A, B and C enter into an agreement for the division among them of gains acquired, or to be acquired, by them by fraud. The agreement is void, as its object is unlawful

(*f.*) A promises to obtain for B an employment in the public service, and B promises to pay 1,000 rupees to A. The agreement is void, as the consideration for it is unlawful.

(*g.*) A, being agent for a landed proprietor, agrees for money without the knowledge of his principal, to obtain for B a lease of land belonging to his principal. The agreement between A and B is void, as it implies a fraud by concealment by A on his principal.

(*h.*) A promises B to drop a prosecution which he has instituted against B for robbery, and B promises to restore the value of the things taken. The agreement is void, as its object is unlawful,

(*i*) A's estate is sold for arrears of revenue under the provisions of an Act of the legislature, by which the defaulter is prohibited from purchasing the estate. B, upon an understanding with A, becomes the purchaser, and agrees to convey the estate to A upon receiving from him the price which B has paid. The agreement is void, as it renders the transaction in effect a purchase by the defaulter and would so defeat the object of the law.

(*j.*) A, who is B's mukhtar, promises to exercise his influence, as such, with B in favour of C, and C promises to pay 1,000 rupees to A. The agreement is void, because it is immoral.

(*k.*) A agrees to let her daughter to hire to B for concubinage. The agreement is void, because it is immoral, though the letting may not be punishable under the Indian Penal Code.

VOID AGREEMENTS.

Agreements void, if considerations and objects unlawful in part.

XXIV. If any part of a single consideration for one or more objects, or any one or any part of any one of several considerations for a single object, is unlawful, the agreement is void.

Illustration.

A promises to superintend, on behalf of B, a legal manufacture of indigo and an illegal traffic in other articles. B promises to pay to A a salary of 10,000 rupees a year. The agreement is void, the object of A's promise, and the consideration for B's promise, being in part unlawful.

Agreement without consideration void—

XXV. An agreement made without consideration is void, unless

unless it is in writing and registered,

(1) it is expressed in writing and registered under the law for the time being in force for the registration of assurances and is made on account of natural love and affection between parties standing in a near relation to each other; or unless

or is a promise to compensate for something done,

(2) it is a promise to compensate wholly or in part a person who has already voluntarily done something for the promisor or something which the promisor was legally compellable to do; or unless

or is a promise to pay a debt barred by limitation law.

(3) it is a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits.

In any of these cases, such an agreement is a contract.

Explanation 1.—Nothing in this section shall affect the validity, as between the donor and donee, of any gift actually made.

Explanation 2.—An agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate; but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given.

Illustrations.

(*a.*) A promises for no consideration to give to B Rs. 1,000. This is a void agreement.

(*b*.) A, for natural love and affection, promises to give his son B, Rs. 1,000; A puts his promise to B into writing and registers it. This is a contract.

(*c*.) A finds B's purse and gives it to him. B promises to give A Rs. 50. This is a contract.

(*d*.) A supports B's infant son. B promises to pay A's expenses in so doing. This is a contract.

(*e*.) A owes B Rs. 1,000, but the debt is barred by the Limitation Act. A signs a witten promise to pay B Rs. 500 on account of the debt. This is a contract.

(*f*.) A agrees to sell a horse worth Rs. 1,000 for Rs. 10. A's consent to the agreement was freely given. The agreement is a contract notwithstanding the inadequacy of the consideration,

(*g*.) A agrees to sell a horse worth Rs. 1,000 for Rs. 10. A denies that his consent to the agreement was freely given. The inadequacy of the consideration is a fact which the Court should take into account in considering, whether or not A's consent was freely given.

Agreement in restraint of marriage void.

XXVI. Every agreement in restraint of the marriage of any person, other than a minor, is void.

Agreement in restraint of trade void.

XXVII. Every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void.

Saving of agreement not to carry on business of which good-will is sold;

Exception 1.—One who sells the good-will of a business may agree with the buyer to refrain from carrying on a similar business, within specified local limits, so long as the buyer, or any person deriving title to the good-will from him, carries on a like business therein, provided that such limits appear to the Court reasonable, regard being had to the nature of the business.

of agreement between partners prior to dissolution;

Exception 2.—Partners may, upon or in anticipation of a dissolution of the partnership, agree that some or all of them will not carry on a business, similar to that of the partnership, within such local limits as are referred to in the last preceding exception.

or during continuance of partnership.

Exception 3.—Partners may agree that some one or all of them will not carry on any business other than that of the partnership, during the continuance of the partnership.

Agreements in restraint of legal proceedings void.

XXVIII. Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.

Saving of contract to refer to arbitration dispute that may arise.

Exception 1.—This section shall not render illegal a contract, by which two or more persons agree that any dispute, which may arise between them in respect of any subject or class of subjects, shall be referred to arbitration, and that only the amount awarded in such arbitration shall be recoverable in respect of the dispute so referred.

Suits barred by such contracts.

When such a contract has been made, a suit may be brought for its specific performance; and if a suit, other than for such specific performance, or for the recovery of the amount so awarded, is brought by one party to such contract against any other such party, in respect of any subject which they have so agreed to refer, the existence of such contract shall be a bar to the suit.

Exception 2.—Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration.

Saving of contract to refer questions that have already arisen.

Agreements void for uncertainty.

XXIX. Agreements, the meaning of which is not certain, or capable of being made certain, are void.

Illustrations.

(*a.*) A agrees to sell to B 'a hundred tons of oil.' There is nothing whatever to show what kind of oil was intended. The agreement is void for uncertainty.

(*b.*) A agrees to sell to B one hundred tons of oil of a specified description known as an article of commerce. There is no uncertainty here to make the agreement void.

(*c.*) A, who is a dealer in cocoa-nut oil only, agrees to sell to B 'one hundred tons of oil.' The nature of A's trade affords an indication of the meaning of the words, and A has entered into a contract for the sale of one hundred tons of cocoanut-oil.

(*d.*) A agrees to sell to B 'all the grain in my granary at Rámnagar.' There is no uncertainty here to make the agreement void.

(*e.*) A agrees to sell to B 'one thousands maunds of rice at a price to be fixed by C.' As the price is capable of being made certain, there is no uncertainty here to make the agreement void.

(*f.*) A agrees to sell to B 'my white horse for rupees five hundred or rupees one thousand.' There is nothing to show which of the two prices was to be given. The agreement is void.

Agreements by way of wager void.

XXX. Agreements by way of wager are void, and no suit shall be brought for recovering any thing alleged to be won on any wager, or entrusted to any person to abide the result of any game or other uncertain event on which any wager is made.

Exception in favor of certain prices for horse racing.

This section shall not be deemed to render unlawful a subscription or contribution, or agreement to subscribe or contribute, made or entered into for or toward any plate, prize or sum of money, of the value or amount of five hundred rupees or upwards, to be awarded to the winner or winners of any horse-race.

Section 294A of the Indian Penal Code not to be affected.

Nothing in this section shall be deemed to legalize any transaction connected with horse-racing, to which the provisions of Section 294A of the Indian Penal Code apply.

CHAPTER III.

Of contingent Contracts.

'Contingent contract' defined.

XXXI. A contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

Illustration.

A contracts to pay B Rs. 10,000 if B's house is burnt. This is a contingent contract.

Enforcement of contracts contingent on an event happening.

XXXII. Contingent contracts to do or not to do anything if an uncertain future event happens, cannot be enforced by law, unless and until that event has happened.

If the event becomes impossible such contracts become void.

Illustrations.

(*a.*) A makes a contract with B to buy B's horse if A survives C. This contract cannot be enforced by law, unless and until C dies in A's lifetime.

(*b.*) A makes a contract with B to sell a horse to B at a specified price, if C, to whom the horse has been offered, refuses to buy him. The contract cannot be enforced by law, unless and until C refuses to buy the horse.

(*c.*) A contracts to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

Enforcement of contracts contingent on an event not happening.

XXXIII. Contingent contracts to do or not to do anything if an uncertain future event does not happen, can be enforced when the happening of that event becomes impossible, and not before.

Illustration.

A agrees to pay B a sum of money, if a certain ship does not return. The ship is sunk. The contract can be enforced when the ship sinks.

When event on which contract is contingent to be deemed impossible, if it is the future conduct of a living person.

XXXIV. If the future event on which a contract is contingent is the way in which a person will act at an unspecified time, the event shall be considered to become impossible, when such person does anything which renders it impossible that he should so act within any definite time, or otherwise than under further contingencies.

Illustration.

A agrees to pay B a sum of money if B marries C.

C marries D. The marriage of B to C must now be considered impossible, although it is possible that D may die, and that C may afterwards marry B.

When contracts become void which are contingent on happening of specified event within fixed time.

XXXV. Contingent contracts to do or not to do anything if a specified uncertain event happens within a fixed time, become void, if, at the expiration of the time fixed, such event has not happened, or if before the time fixed, such event becomes impossible.

When contracts may be enforced which are contingent on specified event not happening within fixed time.

Contingent contracts, to do or not to do anything if a specified uncertain event does not happen within a fixed time, may be enforced by law when the time fixed has expired and such event has not happened, or, before the time fixed has expired, if it becomes certain that such event will not happen.

Illustrations.

(*a.*) A promises to pay B a sum of money if a certain ship returns within a year. The contract may be enforced, if the ship returns within the year; and becomes void, if the ship is burnt within the year.

(*b*). A promises to pay B a sum of money if a certain ship does not return within a year. The contract may be enforced if the ship does not return within the year, or is burnt within the year.

Agreements contingent on impossible events void.

XXXVI. Contingent agreements, to do or not to do anything if an impossible event happens, are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made.

Illustrations.

(*a.*) A agrees to pay B 1,000 rupees if two straight lines should enclose a space. The agreement is void.

(*b.*) A agrees to pay B 1,000 rupees, if B will marry A's daughter, C. C was dead at the time of the agreement. The agreement is void.

CHAPTER IV.

OF THE PERFORMANCE OF CONTRACTS.

CONTRACTS WHICH MUST BE PERFORMED.

Obligation of parties to contracts.

XXXVII. The parties to a contract must either perform, or offer to perform, their respective promises, unless such performance is dispensed with or excused under the provisions of this Act, or of any other law.

Promises bind the representatives of the promisors in case of the death of such promisors before performance, unless a contrary intention appears from the contract.

Illustrations.

(*a*.) A promises to deliver goods to B on a certain day on payment of Rs. 1,000. A dies before that day. A's representives are bound to deliver the goods to B, and B is bound to pay the Rs. 1,000 to A's representatives.

(*b*.) A promises to paint a picture for B by a certain day at a certain price. A dies before the day. The contract cannot be enforced either by A's representatives or by B.

Effect of refusal to accept offer of performance.

XXXVIII. Where a promisor has made an offer of performance to the promisee, and the offer has not been accepted, the promisor is not responsible for non-performance, nor does he thereby lose his rights under the contract.

Every such offer must fulfil the following conditions :—

1. It must be unconditional:

2. It must be made at a proper time and place, and under such circumstances that the person, to whom it is made, may have a reasonable opportunity of ascertaining that the person, by whom it is made, is able and willing there and then to do the whole of what he is bound by his promise to do.

3. If the offer is an offer to deliver anything to the promisee, the promisee must have a reasonable opportunity of seeing that the thing offered is the thing which the promisor is bound by his promise to deliver.

An offer to one of several joint promisees has the same legal consequences as an offer to all of them.

Illustration.

A contracts to deliver to B at his warehouse, on the first March, 1873, 100 bales of cotton of a particular quality. In order to make an offer of performance with the effect stated in this section, A must bring the cotton to B's warehouse, on the appointed day, under such circumstances that B may have a reasonable opportunity of satisfying himself that the thing offered is cotton of the quality contracted for, and that there are 100 bales.

Effect of refusal of party to perform promise wholly.

XXXIX. When a party to a contract has refused to perform, or disabled himself from performing, his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance.

Illustrations.

(*a*.) A, a singer, enters into a contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B engages to pay her 100 rupees for each night's performance. On the sixth night A wilfully absents herself from the theatre. B is at liberty to put an end to the contract

(*b*.) A, a singer, enters into contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B engages to pay her at the rate of 100 rupees for each night. On the sixth night, A wilfully absents herself. With the assent of B, A sings on the seventh night. B has signified his acquiescence in the continuance of the contract, and cannot now put an end to it, but is entitled to compensation for the damage sustained by him through A's failure to sing on the sixth night.

By whom Contracts must be Performed.

Person by whom promise is to be performed.

XL. If it appears from the nature of the case that it was the intention of the parties to any contract that any promise contained in it should be performed by the promisor himself, such promise must be performed by the promisor. In other cases, the promisor or his representatives may employ a competent person to perform it.

Illustrations.

(*a*.) A promises to pay B a sum of money. A may perform this promise either by personally paying the money to B, or by causing it to be paid to B by another; and, if A dies before the time appointed for payment, his representatives must perform the promise, or employ some proper person to do so.

(*b*.) A promises to paint a picture for B. A must perform this promise personally.

Effect of accepting performance from third person.

XLI. When a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor.

Devolution of joint liabilities.

XLII. When two or more persons have made a joint promise, then, unless a contrary intention appears by the contract, all such persons, during their joint lives, and, after the death of any of them, his representative jointly with the survivor or survivors, and, after the death of the last survivor, the representatives of all jointly, must fulfil the promise.

Any one of joint promisors may be compelled to perform.

XLIII. When two or more persons make a joint promise, the promisee may, in the abence of express agreement to the contrary, compel any one of such joint promisors to perform the whole of the promise.

Each promisor may compel contribution.

Each of two or more joint promisors may compel every other joint promisor to contribute equally with himself to the performance of the promise, unless a contrary intention appears from the contract.

Sharing of loss by default in contribution.

If any one of two or more joint promisors makes default in such contribution, the remaining joint promisors must bear the loss arising from such default in equal shares.

Explanation.—Nothing in this section shall prevent a surety from recovering from his principal payments made by the surety on behalf of the principal, or entitle the principal to recover any thing from the surety on account of payments made by the principal.

Illustrations.

(*a*.) A, B, and C jointly promise to pay D 3,000 rupees. D may compel either A or B or C to pay him 3,000 rupees.

(*b*.) A, B, and C jointly promise to pay D the sum of 3,000 rupees. C is compelled to pay the whole. A is insolvent, but his assets are sufficient to pay one-half of his debts. C is entitled to receive 500 rupees from A's estate, and 1,250 rupees from B.

(*c.*) A, B, and C are under a joint promise to pay D 3,000 rupees. C is unable to pay anything, and A is compelled to pay the whole. A is entitled to receive 1,500 rupees from B.

(*d.*) A, B, and C are under a joint promise to pay D 3,000 rupees. A and B being only sureties for C. C fails to pay. A and B are compelled to pay the whole sum. They are entitled to recover it from C.

Effect of release of one joint contractor.

XLIV. Where two or more persons have made a joint promise, a release of one of such joint promisors by the promisee does not discharge the other joint promisor or joint promisors; neither does it free the joint promisor, so released, from responsibility to the other joint promisor or joint promisors.

Devolution of joint rights.

XLV. When a person has made a promise to two or more persons jointly, then, unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly with the survivor or survivors, and, after the death of the last survivor with the representatives of all jointly.

Illustration.

A, in consideration of 5,000 rupees lent to him by B and C, promises B and C jointly to repay them that sum with interest on a day specified. B dies. The right to claim performance rests with B's representative jointly with C during C's life, and after the death of C, with the representatives of B and C jointly.

TIME AND PLACE FOR PERFORMANCE.

Time for performance of promise, where no time is specified and no application to be made.

XLVI. Where, by the contract, a promisor is to perform his promise without application by the promisee, and no time for performance is specified, the engagement must be performed within a reasonable time.

Explanation.—The question 'What is a reasonable time' is, in each particular case, a question of fact.

Time & place for performance of promise, where time is specified and no application to be made.

XLVII. When a promise is to be performed on a certain day, and the promisor has undertaken to perform it without application by the promisee, the promisor may perform it at any time, during the usual hours of business, on such day and at the place at which the promise ought to be performed.

Illustration.

A promises to deliver goods at B's warehouse on the first January. On that day A brings the goods to B's warehouse, but after the usual hour for closing it; and they are not received. A has not performed his promise.

Application for performance to be at proper time and place.

XLVIII. When a promise is to be performed on a certain day, and the promisor has not undertaken to perform it without application by the promisee, it is the duty of the promisee to apply for performance at a proper place and within the usual hours of business.

Explanation.—The question 'What is a proper time and place' is, in each particular case, a question of fact.

Place for performance of a promise, where no application to be made and no place fixed.

XLIX. When a promise is to be performed without application by the promisee, and no place is fixed for the performance of it, it is the duty of the promisor to apply to the promisee to appoint a reasonable place for the performance of the promise, and to perform it at such place.

Illustration.

A undertakes to deliver a thousand maunds of jute to B on a fixed day. A must apply to B to appoint a reasonable place for the purpose of receiving it, and must deliver it to him at such place.

Performance in manner or at time prescribed or sanctioned by promisee.

L. The performance of any promise may be made in any manner, or at any time which the promisee prescribes or sanctions.

Illustrations.

(*a*.) B owes A 2,000 rupees. A desires B to pay the amount to A's account with C, a banker. B, who also banks with C, orders the amount to be transferred from his account to A's credit, and this is done by C Afterwards, and before A knows of the transfer, C fails. There has been a good payment by B.

(*b*.) A and B are mutually indebted. A and B settle an account by setting off one item against another, and B pays A the balance found to be due from him upon such settlement. This amounts to a payment by A and B, respectively, of the sums which they owed to each other.

(*c*.) A owes B 2,000 rupees. B accepts some of A's goods in reduction of the debt. The delivery of the goods operates as a part payment.

(*d*.) A desires B, who owes him Rs. 100, to send him a note for Rs. 100 by post. The debt is discharged as soon as B puts into the post a letter containing the note duly addressed to A.

PERFORMANCE OF RECIPROCAL PROMISES.

Promisor not bound to perform unless reciprocal promisee ready and willing to perform.

LI. When a contract consists of reciprocal promises to be simultaneously performed, no promisor need perform his promise, unless the promisee is ready and willing to perform his reciprocal promise.

Illustrations.

(*a*.) A and B contract that A shall deliver goods to B to be paid for by B on delivery.

A need not deliver the goods, unless B is ready and willing to pay for the goods on delivery.

B need not pay for the goods, unless A is ready and willing to deliver them on payment.

(*b*.) A and B contract that A shall deliver goods to B at price to be paid by instalments, the first instalment to be paid on delivery.

A need not deliver, unless B is ready and willing to pay the first instalment on delivrey.

B need not pay the first instalment, unless A is ready and willing to deliver the goods on payment of the first instalment.

Order of performance of reciprocal promises.

LII. When the order, in which reciprocal promises are to be performed, is expressly fixed by the contract, they shall be performed in that order; and where the order is not expressly fixed by the contract, they shall be performed in that order which the nature of the transaction requires.

Illustrations.

(*a*.) A and B contract that A shall build a house for B at a fixed price. A's promise to build the house must be performed before B's promise to pay for it.

(*b.*) A and B contract that A shall make over his stock-in-trade to B at a fixed price, and B promises to give security for the payment of the money. A's promise need not be performed until the security is given. for the nature of the transaction requires that A should have security before he delivers up his stock.

Liability of party preventing event on which contract is to take effect.

LIII. When a contract contains reciprocal promises, and one party to the contract prevents the other from performing his promise, the contract becomes voidable at the option of the party so prevented; and he is entitled to compensation from the other party for any loss which he may sustain in consequence of the non-performance of the contract.

Illustration.

A and B contract that B shall execute certain work for A for a thousand rupees. B is ready and willing to execute the work accordingly, but A prevents him from doing so. The contract is voidable at the option of B; and, if he elects to rescind it, he is entitled to recover from A compensation for any loss which he has incurred by its non-performance.

Effect of default as to that promise which should be first performed in contract consisting of reciprocal promises.

LIV. When a contract consists of reciprocal promises, such that one of them cannot be performed, or that its performance cannot be claimed, till the other has been performed, and the promisor of the promise last mentioned fails to perform it, such promisor cannot claim the performance of the reciprocal promise, and must make compensation to the other party to the contract for any loss which such other party may sustain by the non-performance of the contract.

Illustrations.

(*a.*) A hires B's ship to take in and convey from Calcutta to the Mauritius a cargo to be provided by A, B receiving a certain freight for its conveyance. A does not provide any cargo for the ship. A cannot claim the performance of B's promise, and must make compensation to B for the loss which B sustains by the non-performance of the contract.

(*b.*) A contracts with B to execute certain builder's work for a fixed price, B supplying the scaffolding or timber, necessary for the work. B refuses to furnish any scaffolding or timber, and the work cannot be executed. A need not excute the work, and B is bound to make compensation to A for any loss caused to him by the non-performance of the contract.

(*c.*) A contracts with B to deliver to him at a specified price certain merchandise on board a ship which cannot arrive for a month, and B engages to pay for the merchandise within a week from the date of the contract. B does not pay within the week. A's promise to deliver need not be performed, and B must make compensation.

(*d.*) A promises B to sell him one hundred bales of merchandise, to be delivered next day, and B promises A to pay for them within a month. A does not deliver according to his promise. B's promise to pay need not be performed, and A must make compensation.

Effect of failure to perform at fixed time in contract in which time is essential.

LV. When a party to a contract promises to do a certain thing at or before a specified time, or certain things at or before specified times, and fails to do any such thing at or before the specified time, the contract, or so much of it as has not been performed, becomes voidable, at the option of the promisee, if the intention of the parties was that time should be of the essence of the contract.

Effect of such failure when time is not essential.

If it was not the intention of the parties that time should be of the essence of the contract, the contract does not become voidable by the failure to do such thing at or before the specified time; but the promisee is entitled to

compensation from the promisor for any loss occasioned to him by such failure.

Effect of acceptance of performance at time other than that agreed upon.

If, in case of a contract voidable on account of the promisor's failure to perform his promise at the time agreed, the promisee accepts performance of such promise at any time other than that agreed, the promisee cannot claim compensation for any loss occasioned by the non-performance of the promise at the time agreed, unless, at the time of such acceptance, he gives notice to the promisee of his intention to do so.

Agreement to do impossible act void.

LVI. An agreement to do an act impossible in itself is void.

Contract to do impossible act, or one which afterwards becomes impossible or illegal, when void.

A contract to do an act which, after the contract is made, becomes impossible, or by reason of some event which the promisor could not prevent unlawful, becomes void when the act becomes impossible or unlawful.

Compensation for loss on non-performance of act known to be impossible or unlawful.

Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know, to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the non-performance of the promise.

Illustrations.

(*a.*) A agrees with B to discover treasure by magic. The agreement is void.

(*b.*) A and B contract to marry each other. Before the time fixed for the marriage, A goes mad. The contract becomes void.

(*c.*) A contracts to marry B, being already married to C, and being forbidden by the law to which he is subject to practise polygamy, A must make compensation to B for the loss caused to her by the non-performance of his promise.

(*d.*) A contracts to take in cargo for B at a foreign port. A's Government afterwards declares war against the country in which the port is situated. The contract becomes void, when war is declared.

(*e.*) A contracts to act at a theatre for six months in consideration of a sum paid in advance by B. On several occasions A is too ill to act. The contract to act on those occasions becomes void.

Where there are promises to do things legal and also other things illegal, the former are a contract, the latter a void agreement.

LVII. Where persons reciprocally promise, firstly to do certain things which are legal, and, secondly, under specified circumstances, to do certain other things which are illegal, the first set of promises is a contract, but the second is a void agreement.

Illustration.

A and B agree that A shall sell B a house for 10,000 rupees, but that, if Buses it as a gambling house, he shall pay A 50,000 rupees for it.

The first set of reciprocal promises, namely, to sell the house and to pay 10,000 rupees for it, is a contract.

The second set is for an unlawful object, namely, that B may use the house as a gambling house, and is a void agreement.

In alternative promise, one branch being illegal, legal branch alone enforceable.

LVIII. In the case of an alternative promise, one branch of which is legal and the other illegal, the legal branch alone can be enforced.

Illustration.

A and B agree that A shall pay B 1,000 rupees, for which B shall afterwards deliver to A either rice or smuggled opium.

This is a valid contract to deliver rice, and a void agreement as to the opium.

APPROPRIATION OF PAYMENTS.

Application of payment, where debt to be discharged is indicated

LIX. Where a debtor, owing several distinct debts to one person, makes a payment to him, either with express intimation, or under circumstances implying that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly.

Illustrations.

(*a*.) A owes B, among other debts, 1,000 rupees upon a promissory note, which falls due on the first June. He owes B no other debt of that amount. On the first June A pays to B 1,000 rupees. The payment is to be applied to the discharge of the promissory note.

(*b*.) A owes to B, among other debts, the sum of 567 rupees B writes to A and demands payment of this sum. A sends to B 567 rupees. This payment is to be applied to the discharge of the debt of which B had demanded payment.

Application of payment, where debt to be discharged is not indicated.

LX. Where the debtor has omitted to intimate, and there are no other circumstances indicating, to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, whether its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

Application of payment, where neither party makes appropriation.

LXI. Where neither party makes any appropriation, the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payment shall be applied in discharge of each proportionably.

CONTRACTS WHICH NEED NOT BE PERFORMED.

Contracts changed, rescinded or altered need not be performed.

LXII. If the parties to a contract agree to substitute a new contract for it, or to rescind or alter it, the original contract need not be performed.

Illustrations.

(*a*). A owes money to B under a contract. It is agreed between A, B, and C that B shall thenceforth accept C as his debtor instead of A. The old debt of A to B is at an end, and a new debt from C to B has been contracted.

(*b*.) A owes B 10,000 rupees. A enters into an arrangement with B, and gives B a mortgage of his (A's) estate for 5,000 rupees in place of the debt of 10,000 rupees. This is a new contract and extinguishes the old.

(*c*.) A owes B. 1,000 rupees under a contract. B owes C 1,000 rupees. B orders A to credit C with 1,000 rupees in his books, but C does not assent to the arrangement. B still owes C 1,000 rupees, and no new contract has been entered into.

Promisee may dispense with or remit performance of promise.

LXIII. Every promisee may dispense with, or remit wholly or in part, the performance of the promise made to him, or may extend the time for such performance, or may accept instead of it any satisfaction which he thinks fit.

Illustrations.

(*a*.) A promises to paint a picture for B. B afterwards forbids him to do so, A is no longer bound to perform the promise.

(*b*.) A owes B 5,000 rupees. A pays to B, and B accepts, in satisfaction of the whole debt, 2,000 rupees paid at the time and place at which the 5,000 rupees were payable. The whole debt is discharged.

(*c*.) A owes B 5,000 rupees. C pays to B 1,000 rupees, and B accepts them, in satisfaction of his claim on A. This payment is a discharge of the whole claim.

(*d*.) A owes B under a contract, a sum of money, the amount of which has not been ascertained. A, without ascertaining the amount, gives to B, and B, in satisfaction thereof, accepts, the sum of 2,000 rupees. This is a discharge of the whole debt, whatever may be its amount.

(*e*) A owes B 2,000 rupees, and is also indebted to other creditors. A makes an arrangement with his creditors, including B, to pay them a compensation of eight annas in the rupee upon their respective demands. Payment to B of 1,000 rupees is a discharge of B's demand.

Consequences of rescission of avoidable contract.

LXIV. When a person at whose option a contract is voidable rescinds it, the other party thereto need not perform any promise therein contained in which he is promisor. The party rescinding a voidable contract shall, if he have received any benefit thereunder from another party to such contract, restore such benefit, so far as may be, to the person from whom it was received.

Obligation of person who has received advantage under void agreement or contract that becomes void.

LXV. When an agreeement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it, or to make compensation for it to the person from whom he received it.

Illustrations.

(*a*) A pays B 1,000 rupees in consideration of B's promising to marry C, A's daughter. C is dead at the time of the promise. The agreement is void, but B must repay A the 1,000 rupees.

(*b*.) A contracts with B to deliver to him 250 maunds of rice before the first of May. A delivers 130 maunds only before that day, and none after. B retains the 130 maunds after the first of May. He is bound to pay A for them.

(*c*.) A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months, and B engages to pay her a hundred rupees for each night's performance. On the sixth night, A wilfully absents herself from the theatre, and B, in consequence, rescinds the contract. B must pay A for the five nights on which she had sung.

(*d*.) A contracts to sing for B at a concert for 1,000 rupees, which are paid in advance. A is too ill to sing. A is not bound to make compensation to B for the loss of the profits which B would have made if A had been able to sing, but must refund to B the 1,000 rupees paid in advance.

Mode of communicating or revoking rescission of voidable contract.

LXVI. The rescission of a voidable contract may be communicated or revoked in the same manner, and subject to the same rules, as apply to the communication or revocation of a proposal.

Effect of neglect of promisee to afford promisor reasonable facilities for performance.

LXVII. If any promisee neglects or refuses to afford the promisor reasonable facilities for the performance of his promise, the promisor is excused by such neglect or refusal as to any non-performance caused thereby.

Illustration.

A contracts with B to repair B's house.

B neglects or refuses to point out to A the places in which his house requires repair.

B is excused for the non-performance of the contract, if it is caused by such neglect or refusal.

CHAPTER V.

OF CERTAIN RELATIONS RESEMBLING THOSE CREATED BY CONTRACT.

Claim for necessaries supplied to person incapable of contracting, or on his account.

LXVIII. If a person, incapable of entering into a contract, or any one whom he is legally bound to support, is supplied by another person with necessaries suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person.

Illustrations.

(*a.*) A supplies B, a lunatic, with necessaries suitable to his condition in life. A is entitled to be reimbursed from B's property.

(*b.*) A supplies the wife and children of B, a lunatic, with necessaries suitable to their condition in life. A is entitled to be reimbursed from B's property.

Reimbursement of person paying money due by another in payment of which he is interested.

LXIX. A person, who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other.

Illustration.

B holds land in Bengal on a lease granted by A, the zamindar. The revenue payable by A to the Government being in arrear, his land is advertised for sale by the Government. Under the revenue law, the consequence of such sale will be the annulment of B's lease. B, to prevent the sale and the consequent annulment of his own lease, pays to the Government the sum due from A. A is bound to make good to B the amount so paid.

Obligation of person enjoying benefit of non-gratuitous act.

LXX. Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.

Illustrations.

(*a.*) A, a tradesman, leaves goods at B's house by mistake. B treats the goods as his own. He is bound to pay A for them.

(*b.*) A saves B's property from fire. A is not entitled to compensation from B, if the circumstances show that he intended to act gratuitously.

Responsibility of finder of goods.

LXXI. A person who finds goods belonging to another, and takes them into his custody, is subject to the same responsibility as a bailee.

Liability of person to whom money is paid or thing delivered by mistake or under coercion.

LXXII. A person to whom money has been paid or any thing delivered by mistake, or under coercion, must repay or return it.

Illustrations.

(*a.*) A and B jointly owe 100 rupees to C. A alone pays the amount to C, and B, not knowing this fact, pays 100 rupees over again to C. C is bound to repay the amount to B.

(*b.*) A railway company refuses to deliver up certain goods to the consignee, except upon the payment of an illegal charge for carriage. The consignee pays the sum charged in order to obtain the goods. He is entitled to recover so much of the charge as was illegally excessive.

CHAPTER VI.

OF THE CONSEQUENCES OF BREACH OF CONTRACT.

Compensation for loss or damage caused by breach of contract.

LXXIII. When a contract has been broken, the party who suffers by such breach is entitled to receive from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.

Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.

Compensation for failure to discharge obligation resembling those created by contract.

When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default as if such person had contracted to discharge it and had broken his contract.

Explanation.—In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract, must be taken into account.

Illustrations.

(*a.*) A contracts to sell and deliver 50 maunds of saltpetre to B at a certain price, to be paid on delivery. A breaks his promise. B is entitled to receive from A, by way of compensation, the sum, if any, by which the contract price falls short of the price for which B might have obtained 50 maunds of saltpetre of like quality at the time when the saltpetre ought to have been delivered.

(*b.*) A hires B's ship to go to Bombay and there take on board, on the first of January, a cargo which A is to provide, and to bring it to Calcutta, the freight to be paid when earned. B's ship does not go to Bombay, but A has opportunities of procuring suitable conveyance for the cargo upon terms as advantageous as those on which he had chartered the ship. A avails himself of those opportunities, but is put to trouble and expense in doing so. A is entitled to receive compensation from B in respect of such trouble and expense.

(*c.*) A contracts to buy of B, at a stated price, 50 maunds of rice, no time being fixed for delivery. A afterwards informs B that he will not accept the rice if tendered to him. B is entitled to receive from A, by way of compensation, the amount, if any, by which the contract price exceeds that which B can obtain for the rice at the time when A informs B that he will not accept it.

(*d.*) A contracts to buy B's ship for 60,000 rupees, but breaks his promise. A must pay to B, by way of compensation, the excess, if any, of the contract price over the price which B can obtain for the ship at the time of the breach of promise.

(*e.*) A, the owner of a boat, contracts with B to take a cargo of jute to Mirzapúr, for sale at that place, starting on a specified day. The boat, owing to some avoidable cause, does not start at the time appointed, whereby the arrival of the cargo at Mirzapúr is delayed beyond the time when it would have arrived if the boat had sailed according to the contract. After that date, and before the arrival of the cargo, the price of jute falls. The measure of the compensation payable to B by A is the difference between the price which B could have obtained for the cargo at Mirzapúr at the time when it would have arrived if forwarded in due course, and its market price at the time when it actually arrived.

(*f.*) A contracts to repair B's house in a certain manner, and receives payment in advance. A repairs the house, but not according to contract. B is entitled to recover from A the cost of making the repairs conform to the contract.

(*g.*) A contracts to let his ship to B for a year, from the first of January, for a certain price. Freights rise, and, on the first of January, the hire obtainable for the ship is higher than the contract price. A breaks his promise. He must pay to B, by way of compensation, a sum equal to the difference between the contract price and the price for which B could hire a similar ship for a year on and from the first of January.

(*h.*) A contracts to supply B with a certain quantity of iron at a fixed price, being a higher price than that for which A could procure and deliver the iron. B wrongfully refuses to receive the iron. B must pay to A, by way of compensation, the difference between the contract price of iron and the sum for which A could have obtained and delivered it.

(*i.*) A delivers to B, a common carrier, a machine, to be conveyed, without delay, to A's mill, informing B that his mill is stopped for want of the machine. B unreasonably delays the delivery of the machine, and A, in consequence, loses a profitable contract with the Government. A is entitled to receive from B, by way of compensation, the average amount of profit which would have been made by the working of the mill during the time that delivery of it was delayed, but not the loss sustained through the loss of the Government contract.

(*j.*) A having contracted with B to supply B with 1,000 tons of iron at 100 rupees a ton, to be delivered at a stated time, contracts with C for the purchase of 1,000 tons of iron at 80 rupees a ton, telling C that he does so for the purpose of performing his contract with B. C fails to perform his contract with A, who cannot procure other iron, and B, in consequence, rescinds the contract. C must pay to A 20,000 rupees, being the profit which A would have made by the performance of his contract with B.

(*k.*) A contracts with B to make and deliver to B, by a fixed day, for a specified price, a certain piece of machinery. A does not deliver the piece of machinery at the time specified, and, in consequence of this, B is obliged to procure another at a higher price than that which he was to have paid to A, and is prevented from performing a contract which B had made with a third person at the time of his contract with A (but which had not been then communicated to A), and is compelled to make compensation for breach of that contract. A must pay to B, by way of compensation, the difference between the contract price of the piece of machinery and the sum paid by B for another, but not the sum paid by B to the third person by way of compensation.

(*l.*) A, a builder, contracts to erect and finish a house by the first of January, in order that B may give possession of it at that time to C, to whom B has contracted to let it. A is informed of the contract between B and C. A builds the house so badly that, before the first of January, it falls down and has to be re-built by B, who, in consequence, loses the rent which he was to have received from C, and is obliged to make compensation to C for the breach of his contract. A must make compensation to B for the cost of re-building the house, for the rent lost, and for the compensation made to C.

(*m.*) A sells certain merchandise to B, warranting it to be of a particular quality, and B, in reliance upon this warranty, sells to C with a similar warranty. The goods prove to be not according to the warranty, and B becomes liable to pay C a sum of money by way of compensation. B is entitled to be reimbursed this sum by A.

(*n.*) A contracts to pay a sum of money to B on a day specified. A does not pay the money on that day. B, in consequence of not receiving the money on that day, is unable to pay his debts, and is totally ruined. A is not liable to make good to B anything except the principal sum he contracted to pay, together with interest up to the day of payment.

(*o.*) A contracts to deliver 50 maunds of saltpetre to B on the first of January, at a certain price. B afterwards, before the first of January, contracts to sell the saltpetre to C at a price higher than the market price of the first of January. A breaks his promise. In estimating the compensation payable by A to B, the market price of the first January, and not the profit which would have arisen to B from the sale to C, is to be taken into account.

(*p.*) A contracts to sell and deliver 500 bales of cotton to B on a fixed day. A knows nothing of B's mode of conducting his business. A breaks his promise, and B, having no cotton, is obliged to close his mill. A is not responsible to B for the loss caused to B by the closing of the mill.

(*q.*) A contracts to sell and deliver to B, on the first of January, certain cloth which B intends to manufacture into caps of a particular kind for which there is no demand, except at that season. The cloth is not delivered till after the appointed time, and too late to be used that year in making caps. B is entitled to receive from A, by way of compensation, the difference between the contract price of the cloth and its market price at the time of delivery, but not the profits which he expected to obtain by making caps, nor the expenses which he has been put to in making preparation for the manufacture.

(r.) A, a ship-owner, contracts with B to convey him from Calcutta to Sydney in A's ship sailing on the first of January, and B pays to A, by way of deposit, one-half of his passage-money. The ship does not sail on the first of January, and B, after being, in consequence, detained in Calcutta for some time, and thereby put to some expense, proceeds to Sydney in another vessel, and in consequence, arriving too late in Sydney, loses a sum of money. A is liable to repay to B his deposit, with interest, and the expense to which he is put by his detention in Calcutta, and the excess, if any, of the passage-money paid for the second ship over that agreed upon for the first, but not the sum of money which B lost by arriving in Sydney too late.

Title to compensation for breach of contract in which a sum is named as payable in case of breach.

LXXIV. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract, reasonable compensation not exceeding the amount so named.

Exception.—When any person enters into any bail-bond, recognizance, or other instrument of the same nature, or, under the provisions of any law, or under the orders of the Government of India or of any local Government, gives any bond for the performance of any public duty or act, in which the public are interested, he shall be liable, upon breach of the condition of any such instrument, to pay the whole sum mentioned therein.

Explanation.—A person who enters into a contract with Government does not necessarily thereby undertake any public duty or promise to do an act in which the public are interested.

Illustrations.

(a.) A contracts with B to pay B Rs. 1,000 if he fails to pay B Rs. 500 on a given day. A fails to pay B Rs. 500 on that day. B is entitled to recover from A such compensation, not exceeding Rs. 1,000, as the Court considers reasonable.

(b.) A contracts with B that if A practises as a surgeon within Calcutta he will pay B Rs. 5,000. A practises as a surgeon in Calcutta. B is entitled to such compensation, not exceeding Rs. 5,000, as the Court considers reasonable.

(c.) A gives a recognizance binding him in a penalty of Rs. 500 to appear in Court on a certain day. He forfeits his recognizance. He is liable to pay the whole penalty.

Party rightfully rescinding contract entitled to compensation.

LXXV. A person, who rightfully rescinds a contract, is entitled to compensation for any damage which he has sustained through the non-fulfilment of the contract.

Illustration.

(a.) A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months, and B engages to pay her 100 rupees for each night's performance. On the sixth night, A wilfully absents herself from the theatre, and B, in consequence, rescinds the contract. B is entitled to claim compensation for the damage which he has sustained through the non-fulfilment of the contract.

CHAPTER VII.

SALE OF GOODS.

WHEN PROPERTY IN GOODS SOLD PASSES.

'Goods' defined.

LXXVI. In this chapter, the word 'goods' means and includes every kind of movable property.

'Sale' defined.

LXXVII. Sale is the exchange of property for a price. It involves the transfer of the ownership of the thing sold from the seller to the buyer.

Sale how effected.

LXXVIII. Sale is effected by offer and acceptance of ascertained goods for a price, or of a price for ascertained goods, together with payment of the price or delivery of the goods, or with tender, part payment, earnest, or part delivery, or with an agreement, express or implied, that the payment or delivery, or both, shall be postponed.

Where there is a contract for the sale of ascertained goods, the property in the goods sold passes to the buyer when the whole or part of the price, or when the earnest, is paid, or when the whole or part of the goods is delivered.

If the parties agree expressly, or by implication, that the payment or delivery, or both, shall be postponed, the property passes as soon as the proposal for sale is accepted.

Illustrations.

(*a.*) B offers to buy A's horse for 500 rupees. A accepts B's offer, and delivers the horse to B. The horse becomes B's property on delivery.

(*b.*) A sends goods to B, with the request that he will buy them at a stated price if he approves of them, or return them if he does not approve of them. B retains the goods, and informs A that he approves of them. The goods become B's when B retains them.

(*c.*) B offers A for his horse 1,000 rupees, the horse to be delivered to B on a stated day, and the price to be paid on another stated day. A accepts the offer. The horse becomes B's as soon as the proposal is accepted.

(*d.*) B offers A for his horse 1,000 rupees, on a month's credit. A accepts the offer. The horse becomes B's as soon as the offer is accepted.

(*e.*) B, on the first January, offers to A, for a quantity of rice, 2,000 rupees, to be paid on the first March following, the rice not to be taken away till paid for. A accepts the offer. The rice becomes B's as soon as the offer is accepted.

Transfer of ownership of thing sold, which has yet to be ascertained, made, or finished.

LXXIX. Where there is a contract for the sale of a thing which has yet to be ascertained, made, or finished, the ownership of the thing is not transferred to the buyer until it is ascertained, made, or finished.

Illustration.

B orders A, a barge-builder, to make him a barge. The price is not made payable by instalments. While the barge is building, B pays to A money from time to time on account of the price. The ownership of the barge does not pass to B until it is finished.

Completion of sale of goods, which the seller is to put into state in which buyer is to take them.

LXXX. Where, by a contract for the sale of goods, the seller is to do anything to them for the purpose of putting them into a state in which the buyer is to take them, the sale is not complete until such thing has been done.

Illustration.

(*a.*) A, a ship-builder, contracts to sell to B, for a stated price, a vessel which is lying in A's yard; the vessel to be rigged and fitted for a voyage, and the price to be paid on delivery. Under the contract, the property in the vessel does not pass to B until the vessel has been rigged, fitted up, and delivered.

Completion of sale of goods, when seller has to do anything thereto in order to ascertain price.

LXXXI. Where anything remains to be done to the goods by the seller for the purpose of ascertaining the amount of the price, the sale is not complete until this has been done.

Illustrations.

(*a*) A, owner of a stack of bark, contracts to sell it to B, weigh and deliver it, at 100 rupees per ton. B agrees to take and pay for it on a certain day. Part

is weighed and delivered to B; the ownership of the residue is not transferred to B until it has been weighed pursuant to the contract.

(*b.*) A contracts to sell a heap of clay to B at a certain price per ton. B is, by the contract, to load the clay in his own carts, and to weigh each load at a certain weighing machine, which his carts must pass on their way from A's ground to B's place of deposit. Here, nothing more remains to be done by the seller; the sale is complete, and the ownership of the heap of clay is transferred at once.

Completion of sale when goods are unascertained at date of contract.

LXXXII. Where the goods are not ascertained at the time of making the contract of sale, it is necessary to the completion of the sale that the goods shall be ascertained.

Illustration.

A agrees to sell to B 20 tons of oil in A's cisterns. A's cisterns contain more than 20 tons of oil. No portion of the oil has become the property of B.

Ascertainment of goods by subsequent appropriation.

LXXXIII. Where the goods are not ascertained at the time of making the agreement for sale, but goods answering the description in the agreement are subsequently appropriated by one party, for the purpose of the agreement, and that appropriation is assented to by the other, the goods have been ascertained and the sale is complete.

Illustration.

A having a quantity of sugar in bulk, more than sufficient to fill 20 hogsheads, contracts to sell B 20 hogsheads of it. After the contract, A fills 20 hogsheads with the sugar, and gives notice to B that the hogsheads are ready, and requires him to take them away. B says he will take them as soon as he can. By this appropriation by A, and assent by B, the sugar becomes the property of B.

Ascertainment of goods by seller's selection.

LXXXIV. Where the goods are not ascertained at the time of making the contract of sale by the terms of the contract, and the seller is to do an act with reference to the goods which cannot be done until they are appropriated to the buyer, the seller has a right to select any goods answering to the contract, and by his doing so the goods are ascertained.

Illustration.

B agrees with A to purchase of him, at a stated price, to be paid on a fixed day, 50 maunds of rice out of a larger quantity in A's granary. It is agreed that B shall send sacks for the rice, and that A shall put the rice into them. B does so, and A puts 50 maunds of rice into the sacks. The goods have been ascertained.

Transfer of ownership of movable property, when sold together with immovable.

LXXXV. Where an agreement is made for the sale of immovable and movable property combined, the ownership of the movable property does not pass before the transfer of the immovable property.

Illustration.

A agrees with B for the sale of a house and furniture. The ownership of the furniture does not pass to B until the house is conveyed to B.

Buyer to bear loss, after goods have become his property.

LXXXVI. When goods have become the property of the buyer, he must bear any loss arising from their destruction or injury.

Illustrations.

(*a.*) B offers, and A accepts, 100 rupees for a stack of fire-wood standing on A's premises, the fire-wood to be allowed to remain on A's premises till a certain day, and not to be taken away till paid for. Before payment, and while the fire-wood is on A's premises, it is accidentally destroyed by fire. B must bear the loss.

(*b.*) A bids 1,000 rupees for a picture at a sale by auction. After the bid, it is injured by an accident. If the accident happens before the hammer falls, the loss falls on the seller ; if afterwards, on A.

Transfer of ownership of goods agreed to be sold while non-existent.

LXXXVII. When there is a contract for the sale of goods not yet in existence, the ownership of the goods may be transferred by acts done after the goods are produced, in pursuance of the contract, by the seller, or by the buyer with the seller's assent.

Illustrations.

(*a.*) A contracts to sell to B, for a stated price, all the indigo which shall be produced at A's factory during the ensuing year. A, when the indigo has been manufactured, gives B an acknowledgment that he holds the indigo at his disposal. The ownership of the indigo vests in B from the date of the acknowledgment.

(*b.*) A, for a stated price, contracts that B may take and sell any crops that shall be grown on A's land in succession to the corps then standing. Under this contract, B, with the assent of A, takes possession of some crops grown in succession to the crops standing at the time of the contract. The ownership of the crops, when taken possession of, vests in B.

(*c.*) A, for a stated price, contracts that B may take and sell any crops that shall be grown on his land in succession to the crops then standing. Under this contract, B applies to A for possession of some crops grown in succession to the crops which were standing at the time of the contract. A refuses to give possession. The ownership of the crops has not passed to B, though A may commit a breach of contract in refusing to give possession.

Contract to sell and deliver, at a future day, goods not in seller's possession at date of contract.

LXXXVIII. A contract for the sale of goods to be delivered at a future day is binding, though the goods are not in the possession of the seller at the time of making the contract, and though, at that time, he has no reasonable expectation of acquiring them otherwise than by purchase.

Illustration.

A contracts, on the first January, to sell B 50 shares in the East Indian Railway Company, to be delivered and paid for on the first March of the same year. A, at the time of making the contract, is not in possession of any shares. The contract is valid.

Determination of price, when not fixed by contract.

LXXXIX. Where the price of goods sold is not fixed by the contract of sale, the buyer is bound to pay the seller such a price as the Court considers reasonable.

Illustration.

B, living at Patna, orders of A, a coach-builder at Calcutta, a carriage of a particular description. Nothing is said by either as to the price. The order having been executed, and the price being in dispute between the buyer and the seller, the Court must decide what price it considers reasonable.

DELIVERY.

Delivery how made.

XC. Delivery of goods sold may be made by doing anything which has the effect of putting them in the possession of the buyer, or of any person authorized to hold them on his behalf.

Illustrations.

(*a.*) A sells to B a horse, and causes or permits it to be removed from A's stables to B's. The removal to B's stable is a delivery.

(*b*.) B, in England, orders 100 bales of cotton from A, a merchant of Bombay, and sends his own ship to Bombay for the cotton. The putting the cotton on board the ship is a delivery to B.

(*c*.) A sells to B certain specific goods which have been locked up in a godown. A gives B the key of the godown, in order that he may get the goods. This is a delivery.

(*d*.) A sells to B five specific casks of oil. The oil is in the warehouse of A. B sells the five casks to C. A receives warehouse rent for them from C. This amounts to a delivery of the oil to C, as it shows an assent on the part of A to hold the goods as warehouseman of C.

(*e*). A sells to B 50 maunds of rice in the possession of C, a warehouseman. A gives B an order to C to transfer the rice to B, and C assents to such order, and transfers the rice in his books to B. This is a delivery.

(*f*.) A agrees to sell B five tons of oil, at 1,000 rupees per ton, to be paid for at the time of delivery. A gives to C, a wharfinger, at whose wharf he had twenty tons of the oil, an order to transfer five of them into the name of B. C makes the transfer in his books, and gives A's clerk a notice of the transfer for B. A's clerk takes the transfer-notice to B, and offers to give it him on payment of the price of the oil. B refuses to pay. There has been no delivery to B, as B never assented to make C his agent to hold for him the five tons selected by A.

Effect of delivery to wharfinger or carrier.

XCI. A delivery to a wharfinger or carrier of the goods sold, has the same effect as a delivery to the buyer, but does not render the buyer liable for the price of goods which do not reach him, unless the delivery is so made as to enable him to hold the wharfinger or carrier responsible for the safe custody or delivery of the goods.

Illustration.

B, at Agra, orders of A, who lives at Calcutta, three casks of oil to be sent to him by railway. A takes three casks of oil directed to B to the railway station, and leaves them there without conforming to the rules which must be complied with in order to render the Railway Company responsible for their safety. The goods do not reach B. There has not been a sufficient delivery to charge B in a suit for the price.

Effect of part-delivery.

XCII. A delivery of parts of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Illustrations.

(*a*). A ship arrives in a harbour laden with a cargo consigned to A, the buyer of the cargo. The captain begins to discharge it, and delivers over part of the goods to A in progress of the delivery of the whole; this is a delivery of the cargo to A for the purpose of passing the property in the cargo.

(*b*.) A sells to B a stack of fire-wood, to be paid for by B on delivery. After the sale, B applies for and obtains from A leave to take away some of the fire-wood. This has not the legal effect of delivery of the whole.

(*c*.) A sells 50 maunds of rice to B. The rice remains in A's warehouse. After the sale, B sells to C 10 maunds of the rice, and A, at B's desire, sends the 10 maunds to C. This has not the legal effect of a delivery of the whole.

Seller not bound to deliver until buyer applies for delivery.

XCIII. In the absence of any special promise, the seller of goods is not bound to deliver them until the buyer applies for delivery.

Place of delivery.

XCIV. In the absence of any special promise as to delivery, goods sold are to be delivered at the place at which they are at the time of the sale; and goods contracted to be sold are to be delivered at the place at which they are

at the time of the contract for sale, or, if not then in existence, at the place at which they are produced.

SELLER'S LIEN.

Seller's lien.

XCV. Unless a contrary intention appears by the contract, a seller has a lien on sold goods, as long as they remain in his possession, and the price or any part of it remains unpaid.

Lien where payment to be made at a future day, but no time fixed for delivery.

'Insolvency' defined.

XCVI. Where, by the contract, the payment is to be made at a future day, but no time is fixed for the delivery of the goods, the seller has no lien, and the buyer is entitled to a present delivery of the goods without payment. But if the buyer becomes insolvent before delivery of the goods, or if the time appointed for payment arrives before the delivery of the goods, the seller may retain the goods for the price.

Explanation.—A person is insolvent who has ceased to pay his debts in the usual course of business, or who is incapable of paying them.

Illustration.

A sells to B a quantity of sugar in A's warehouse. It is agreed that three months' credit shall be given. B allows the sugar to remain in A's warehouse. Before the expiry of the three months, B becomes insolvent. A may retain the goods for the price.

Seller's lien, where payment to be made at future day, and buyer allows goods to remain in seller's possession.

XCVII. Where, by the contract, the payment is to be made at a future day, and the buyer allows the goods to remain in the possession of the seller until that day, and does not then pay for them, the seller may retain the goods for the price.

Illustration.

A sells to B a quantity of sugar in A's warehouse. It is agreed that three months' credit shall be given. B allows the sugar to remain in A's warehouse till the expiry of the three months, and then does not pay for them. A may retain the goods for the price.

Seller's lien against subsequent buyer.

XCVIII. A seller, in possession of goods sold, may retain them for the price against any subsequent buyer, unless the seller has recognized the title of the subsequent buyer.

STOPPAGE IN TRANSIT.

Power of seller to stop in transit.

XCIX. A seller who has parted with the possession of the goods, and has not received the whole price, may, if the buyer becomes insolvent, stop the goods while they are in transit to the buyer.

When goods are to be deemed in transit.

C. Goods are to be deemed in transit, while they are in the possession of the carrier, or lodged at any place in the course of transmission to the buyer, and are not yet come into the possession of the buyer or any person on his behalf, otherwise than as being in possession of the carrier, or as being so lodged.

Illustrations.

(*a.*) B, living at Madras, orders goods of A, at Patna, and directs that they shall be sent to Madras. The goods are sent to Calcutta and there delivered to C, a wharfinger, to be forwarded to Madras. The goods, while they are in the possession of C, are in transit.

(*b.*) B, at Delhi, orders goods of A, at Calcutta. A consigns and forwards the goods to B at Delhi. On arrival there, they are taken to the warehouse of B and left there. B refuses to receive them, and immediately afterwards stops payment. The goods are in transit.

(*c.*) B, who lives at Púná, orders good of A at Bombay. A sends them to Púná by C, a carrier appointed by B. The goods arrive at Púná, and are placed by C, at B's request, in C's warehouse for B. The goods are no longer in transit.

(*d.*) B, a merchant of London, orders 100 bales of cotton of A, a merchant at Bombay. B sends his own ship to Bombay for the cotton. The transit is at an end when the cotton is delivered on board the ship.

(*e.*) B, a merchant of London, orders 100 bales of cotton of A, a merchant at Bombay. B sends his own ship to Bombay for the cotton. A delivers the cotton on board the ship, and takes bills of lading from the master, making the cotton deliverable to A's order or assigns. The cotton arrives at London, but before it comes into B's possession B becomes insolvent. The cotton has not been paid for. A may stop the cotton.

Continuance of right of stoppage.

CI. The seller's right of stoppage does not, except in the cases hereinafter mentioned, cease on the buyer's re-selling the goods while in transit and receiving the price, but continues until the goods have been delivered to the second buyer, or to some person on his behalf.

Cessation of right on assignment, by buyer, of document showing title.

CII. The right of stoppage ceases, if the buyer, having obtained a bill of lading or other document showing title to the goods, asigns it, while the goods are in transit, to a second buyer, who is acting in good faith, and who gives valuable consideration for them.

Illustrations.

(*a.*) A sells and consigns certain goods to B, and sends him the bill of lading. A being still unpaid, B becomes insolvent, and while the goods are in transit, assigns the bill of lading for cash to C, who is not aware of his insolvency. A cannot stop the goods in transit.

(*b.*) A sells and consigns certain goods to B. A being still unpaid, B becomes insolvent, and while the goods are still in transit, assigns the bill of lading for cash to C, who knows that B is insolvent. The assignment not being in good faith, A may still stop the goods in transit.

How seller may stop where instrument of title assigned to secure specific advance.

CIII. Where a bill of lading or other instrument of title to any goods is assigned by the buyer of such goods by way of pledge, to secure an advance made specifically upon it, in good faith, the seller cannot, except on payment or tender to the pledgee of the advance so made, stop the goods in transit.

Illustrations.

(*a.*) A sells and consigns goods to B of the value of 12,000 rupees. B assigns the bill of lading for these goods to C, to secure a specific advance of 5,000 rupees made to him upon the bill of lading by C. B becomes insolvent, being indebted to C to the amount of 9,000 rupees. A is not entitled to stop the goods, except on payment or tender to C of 5,000 rupees.

(*b*) A sells and consigns goods to B of the value of 12,000 rupees. B assigns the bill of lading for these goods to C, to secure the sum of 5,000 rupees due from him to C, upon a general balance of account. B becomes insolvent. A is entitled to stop the goods in transit without payment or tender to C of the 5,000 rupees.

Stoppage how effected.

CIV. The seller may effect stoppage in transit, either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other depositary in whose possession they are.

Notice of seller's claim.

CV. Such notice may be given either to the person who has the immediate possession of the goods, or to the principal, whose servant has possession. In the latter case, the notice must be given at such a time, and under such circumstances, that the principal, by the exercise of reasonable diligence, may communicate it to his servant in time to prevent a delivery to the buyer.

Right of seller on stoppage.

CVI. Stoppage in transit entitles the seller to hold the goods stopped, until the price of the whole of the goods sold is paid.

Illustration.

A sells to B 100 bales of cotton; 60 bales having come into B's possession, and 40 being still in transit. B becomes insolvent, and A being still unpaid, stops the 40 bales in transit. A is entitled to hold the 40 bales until the price of the 100 bales is paid.

RE-SALE.

Re-sale on buyer's failure to perform.

CVII. Where the buyer of goods fails to perform his part of the contract, either by not taking the goods sold to him, or by not paying for them, the seller, having a lien on the goods, or having stopped them in transit, may, after giving notice to the buyer of his intention to do so, re-sell them, after the lapse of a reasonable time, and the buyer must bear any loss, but is not entitled to any profit, which may occur on such re-sale.

TITLE.

Title conveyed by seller of goods to buyer.

CVIII. No seller can give to the buyer of goods a better title to those goods than he has himself, except in the following cases :—

Exception 1.—When any person is, by the consent of the owner, in possession of any goods, or of any bill of lading, dock-warrant, warehouse-keeper's certificate, wharfinger's certificate or warrant or order for delivery, or other document showing title to goods, he may transfer the ownership of the goods, of which he is so in possession, or to which such documents relate, to any other person, and give such person a good title thereto, notwithstanding any instructions of the owner to the contrary: Provided that the buyer acts in good faith, and under circumstances which are not such as to raise a reasonable presumption that the person in possession of the goods or documents has no right to sell the goods.

Exception. 2.—If one of several joint-owners of goods has the sole possession of them by the permission of the co-owners, the ownership of the goods is transferred to any person who buys them of such joint-owner in good faith, and under circumstances which are not such as to raise a reasonable presumption that the person in possession of the goods has no right to sell them.

Exception 3.—When a person has obtained possession of goods under a contract voidable at the option of the other party thereto, the ownership of the goods is transferred to a third person who, before the contract is rescinded, buys them in good faith of the person in possession; unless the circumstances which render the contract voidable amounted to an offence committed by the person in possession or those whom he represents.

In this case the original seller is entitled to compensation from the original purchaser for any loss which the seller may have sustained by being prevented from rescinding the contract.

Illustrations.

(*a.*) A buys from B, in good faith, a cow which B had stolen from C. The property in the cow is not transferred to A.

(*b.*) A, a merchant, entrusts B, his agent, with a bill of lading relating to certain goods, and instructs B not to sell the goods for less than a certain price, and not to give credit to D. B sells the goods to D for less than that price, and gives D three months' credit. The property in the goods passes to D.

(*c.*) A sells to B goods of which he has the bill of lading, but the bill of lading is made out for delivery of the goods to C, and it has not been endorsed by C. The property is not transferred to B.

(*d.*) A, B, and C are joint Hindú brothers, who own certain cattle in common. A is left by B and C in possession of a cow, which he sells to D. D purchases *bonâ fide*. The property in the cow is transferred to D.

(*e.*) A, by a misrepresentation not amounting to cheating, induces B to sell and deliver to him a horse. A sells the horse to C before B has rescinded the contract. The property in the horse is transferred to C; and B is entitled to compensation from A for any loss which B has sustained by being prevented from rescinding the contract.

(*f.*) A compels B by wrongful intimidation, or induces him by cheating or forgery, to sell him a horse, and, before B rescinds the contract, sells the horse to C. The property is not transferred to C.

WARRANTY.

Seller's responsibility for badness of title.

CIX. If the buyer, or any person claiming under him, is, by reason of the invalidity of the seller's title, deprived of the thing sold, the seller is responsible to the buyer, or the person claiming under him, for loss caused thereby, unless a contrary intention appears by the contract.

Establishment of implied warranty of goodness or quality.

CX. An implied warranty of goodness or quality may be established by the custom of any particular trade.

Warranty of soundness implied on sale of provisions.

CXI. On the sale of provisions, there is an implied warranty that they are sound.

Warranty of bulk implied on sale of goods by sample.

CXII. On the sale of goods by sample, there is an implied warranty that the bulk is equal in quality to the sample.

Warranty implied where goods are sold as being of a certain denomination.

CXIII. Where goods are sold as being of a certain denomination, there is an implied warranty that they are such goods as are commercially known by that denomination, although the buyer may have bought them by sample, or after inspection of the bulk.

Explanation.—But if the contract specifically states that the goods, though sold as of a certain denomination, are not warranted to be of that denomination, there is no implied warranty.

Illustrations.

(*a.*) A, at Calcutta, sells to B twelve bags of 'waste silk,' then on its way from Murshedábád to Calcutta. There is an implied warranty by A that the silk shall be such as is known in the market under the denomination of 'waste silk'

(*b.*) A buys, by sample and after having inspected the bulk, 100 bales of 'Fair Bengal' cotton. The cotton proves not to be such as is known in the market as 'Fair Bengal:' there is a breach of warranty.

Warranty where goods ordered for a specified purpose.

CXIV. Where goods have been ordered for a specified purpose, for which goods, of the denomination mentioned in the order, are usually sold, there is an implied warranty by the seller that the goods supplied are fit for that purpose.

Illustration.

B orders of A, a copper manufacturer, copper for sheathing a vessel. A, on this order, supplies copper. There is an implied warranty that the copper is fit for sheathing a vessel.

Warranty on sale of article of a well-known ascertained kind.

CXV. Upon the sale of an article of a well-known ascertained kind, there is no implied warranty of its fitness for any particular purpose.

Illustration.

B writes to A, the owner of a patent invention for cleaning cotton—"Send me your patent cotton-cleaning machine to clean the cotton at my factory." A sends the machine according to order. There is an implied warranty by A that it is the article known as A's patent cotton-cleaning machine, but none that it is fit for the particular purpose of cleaning the cotton at B's factory.

Seller when not responsible for latent defects.

CXVI. In the absence of fraud and of any express warranty of quality, the seller of an article, which answers the description under which it was sold, is not responsible for a latent defect in it.

Illustration.

A sells to B a horse. It turns out that the horse had, at the time of the sale, a defect of which A was unaware. A is not responsible for this.

Buyer's right on breach of warranty.

CXVII. Where a specific article, sold with a warranty, has been delivered and accepted, and the warranty is broken, the sale is not thereby rendered voidable; but the buyer is entitled to compensation from the seller for loss caused by the breach of warranty.

Illustration.

A sells and delivers to B a horse warranted sound. The horse proves to have been unsound at the time of sale. The sale is not thereby rendered voidable, but B is entitled to compensation from A for loss caused by the unsoundness.

Right of buyer on breach of warranty in respect of goods not ascertained.

CXVIII. Where there has been a contract, with a warranty, for the sale of goods which, at the time of the contract, were not ascertained or not in existence, and the warranty is broken, the buyer may

accept the goods or refuse to accept the goods when tendered,

or keep the goods for a time reasonably sufficient for examining and trying them, and then refuse to accept them; provided that, during such time, he exercises no other act of ownership over them than is necessary for the purpose of examination and trial.

In any case the buyer is entitled to compensation from the seller for any loss caused by the breach of warranty: but if he accepts the goods and intends to claim compensation, he must give notice of his intention to do so within a reasonable time after discovering the breach of the warranty.

Illustrations.

(*a*.) A agrees to sell and, without application on B's part, deliver to B 200 bales of unascertained cotton by sample. Cotton not in accordance with sample is delivered to B. B may return it, if he has not kept it longer than a reasonable time for the purpose of examination.

(*b.*) B agrees to buy of A twenty-five sacks of flour by sample. The flour is delivered to B, who pays the price. B, upon examination, finds it not equal to sample; B afterwards uses two sacks, and sells one. He cannot now rescind the contract and recover the price, but he is entitled to compensation from A for any loss caused by the breach of warranty.

(*c.*) B makes two pairs of shoes for A by A's order. When the shoes are delivered, they do not fit A. A keeps both pairs for a day. He wears one pair for a short time in the house, and takes a long walk out of doors in the other pair. He may refuse to accept the first pair, but not the second. But he may recover compensation for any loss sustained by the defect of the second pair.

MISCELLANEOUS.

When buyer may refuse to accept if goods not ordered are sent with goods ordered.

CXIX. When the seller sends to the buyer goods not ordered with goods ordered, the buyer may refuse to accept any of the goods so sent, if there is risk or trouble in separating the goods ordered from the goods not ordered.

Illustration.

A orders of B specific articles of china. B sends these articles to A in a hamper, with other articles of china which had not been ordered. A may refuse to accept any of the goods sent.

Effect of wrongful refusal to accept.

CXX. If a buyer wrongfully refuses to accept the goods sold to him, this amounts to a breach of the contract of sale.

Right of seller as to rescission on failure of buyer to pay price at time fixed.

CXXI. When goods sold have been delivered to the buyer, the seller is not entitled to rescind the contract on the buyer's failing to pay the price at the time fixed, unless it was stipulated by the contract that he should be so entitled.

Sale and transfer of lots sold by auction.

CXXII. Where goods are sold by auction, there is a distinct and separate sale of the goods in each lot, by which the ownership thereof is transferred as each lot is knocked down.

Effect of use by seller of pretended biddings to raise price.

CXXIII. If, at a sale by auction, the seller makes use of pretented biddings to raise the price, the sale is voidable at the auction of the buyer.

CHAPTER VIII.

OF INDEMNITY AND GUARANTEE.

Contract of 'indemnity' defined.

CXXIV. A contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person, is called a contract of indemnity.

Illustration.

(*a.*) A contracts to idemnify B against the consequences of any proceedings which C may take against B in respect of a certain sum of 200 rupees. This is a contract of indemnity.

Rights and liabilities of indemnity-holder when sued.

CXXV. The promisee in a contract of indemnity, acting within the scope of his authority, is entitled to recover from the promisor—

(1) all damages which he may be compelled to pay in any suit in respect of any matter to which the promise to indemnify applies;

(2) all costs which he may be compelled to pay in any such suit, if, in bringing or defending it, he did not contravene the orders of the promisor, and acted as it would have been prudent for him to act in the absence of any contract of indemnity, or if the promisor authorized him to bring or defend the suit;

(3) all sums which he may have paid under the terms of any compromise of any such suit, if the compromise was not contrary to the orders of the promisor, and was one which it would have been prudent for the promisee to make in the absence of any contract of indemnity, or if the promisor authorized him to compromise the suit.

Contract of 'guarantee,' 'surety,' 'principal debtor,' and 'creditor.'

CXXVI. A contract of guarantee is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the surety; the person in respect of whose default the guarantee is given, is called the principal debtor; and the person to whom the guarantee is given is called the creditor. a guarantee may be either oral or written.

Consideration for guarantee.

CXXVII. Anything done, or any promise made, for the benefit of the principal debtor, may be a sufficient consideration to the surety for giving the guarantee.

Illustrations.

(*a.*) B requests A to sell and deliver to him goods on credit. A agrees to do so, provided C will guarantee the payment of the price of the goods. C promises to guarantee the payment in consideration of A's promise to deliver the goods This is a sufficient consideration for C's promise.

(*b.*) A sells and delivers goods to B. C afterwards requests A to forbear to sue B for the debt for a year, and promises that, if he does so, C will pay for them in default of payment by B. A agreest o forbear as requested. This is a sufficient consideration for C's promise.

(*c.*) A sells and delivers goods to B. C afterwards, without consideration, agrees to pay for them in default of B. The agreement is void.

Surety's liability.

CXXVIII. The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

Illustration.

A guarantees to B the payment of a bill of exchange by C, the acceptor. The bill is dishonoured by C. A is liable, not only for the amount of the bill, but also for any interest and charges which may have become due on it.

Continuing guarantee.

CXXIX. A guarantee which extends to a series of transactions, is called a continuing guarantee.

Illustrations.

(*a.*) A, in consideration that B will employ C in collecting the rents of B's zamíndárí, promises B to be responsible to the amount of 5,000 rupees for the due collection and payment by C of those rents. This is a continuing guarantee.

(*b.*). A guarantees payment to B, a tea-dealer, to the amount of £100, for any tea he may from time to time supply to C. B supplies C with tea to above the value of £100, and C pays B for it. Afterwards B supplies C with tea to the value of £200. C fails to pay. The guarantee given by A was a continuing guarantee, and he is accordingly liable to B to the extent of £100.

(*c.*) A guarantees payment to B of the price of five sacks of flour, to be delivered by B to C and to be paid for in a month. B delivers five sacks to C. C pays for them. Afterwards B delivers four sacks to C which C does not pay for. The guarantee given by A was not a continuing guarantee, and accordingly he is not liable for the price of the four sacks.

Revocation of continuing guarantee.

CXXX. A continuing guarantee may at any time be revoked by the surety, as to future transactions, by notice to the creditor.

Illustrations.

(*a.*) A, in consideration of B's discounting, at A's request, bills of exchange for C, guarantees to B for twelve months the due payment of all such bills to the extent of 5,000 rupees. B discounts bills for C to the extent of 2,000 rupees. Afterwards, at the end of three months, A revokes the guarantee. This revocation discharges A from all liability to B for any subsequent discount. But A is liable to B for the 2,000 rupees, on default of C.

(*b.*) A guarantees to B, to the extent of 10,000 rupees, that C shall pay all the bills that B shall draw upon him. B draws upon C. C accepts the bill. A gives notice of revocation. C dishonours the bill at maturity. A is liable upon his guarantee.

Revocation of continuing guarantee, by surety's death.

CXXXI. The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions.

Liability of two persons primarily liable, not affected by a private arrangement between them as to suretyship.

CXXXII. Where two persons contract with a third person to undertake a certain liability, and also contract with each other that one of them shall be liable only on the default of the other, the third person not being a party to such contract, the liability of each of such two persons to the third person under the first contract is not affected by the existence of the second contract, although such third person may have been aware of its existence.

Illustration.

A and B make a joint and several promissory note to C. A makes it, in fact, as surety for B, and C knows this at the time when the note is made. The fact that A, to the knowledge of C, made the note as surety for B, is no answer to a suit by C against A upon the note.

Discharge of surety, by variance in terms of contract.

CXXXIII. Any variance, made without the surety's consent, in the terms of the contract between the principal and the creditor, discharges the surety as to transactions subsequent to the variance.

Illustrations.

(*a.*) A becomes surety to C for B's conduct as a manager in C's bank. Afterwards, B and C contract, without A's consent, that B's salary shall be raised, and that he shall become liable for one-fourth of the losses on over-drafts. B allows a customer to overdraw, and the bank loses a sum of money. A is discharged from his suretyship by the variance made without his consent, and is not liable to make good this loss.

(*b.*) A guarantees C against the misconduct of B in an office to which B is appointed by C, and of which the duties are defined by an Act of the legislature. By a subsequent Act the nature of the office is materially altered Afterwards, B misconducts himself. A is discharged by the change from future liability under his guarantee, though the misconduct of B is in respect of a duty not affected by the latter Act.

(*c.*) C agrees to appoint B as his clerk to sell goods at a yearly salary, upon A's becoming surety to C for B's duly accounting for monies received by him as such clerk. Afterwards, without A's knowledge or consent, C and B agree that B should be paid by a commission on the goods sold by him and not by a fixed salary. A is not liable for subsequent misconduct of B.

(*d.*) A gives to C a continuing guarantee to the extent of 3,000 rupees for any oil supplied by C to B on credit. Afterwards B becomes embarrassed, and, without

the knowledge of A, B and C contract that C shall continue to supply B with oil for ready money, and that the payments shall be applied to the then existing debts between B and C. A is not liable on his guarantee for any goods supplied after this new arrangement.

(*e.*) C contracts to lend B 5,000 rupees on the first March. A guarantees repayment C pays the 5,000 rupees to B on the first January. A is discharged from his liability, as the contract has been varied, inasmuch as C might sue B for the money before the first of March.

Discharge of surety, by release or discharge of principal debtor.

CXXXIV. The surety is discharged by any contract between the creditor and the principal debtor by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

Illustrations.

(*a.*) A gives a guarantee to C for goods to be supplied by C to B. C supplies goods to B, and afterwards B becomes embarrassed and contracts with his creditors (including C) to assign to them his property in consideration of their releasing him from their demands. Here B is released from his debt by the contract with C, and A is discharged from his suretyship.

(*b.*) A contracts with B to grow a crop of indigo on A's land and to deliver it to B at a fixed rate, and C guarantees A's performance of this contract. B diverts a stream of water which is necessary for the irrigation of A's land, and thereby prevents him from raising the indigo. C is no longer liable on his guarantee.

(*c.*) A contracts with B for a fixed price to build a house for B within a stipulated time, B supplying the necessary timber. C guarantees A's performance of the contract. B omits to supply the timber. C is discharged from his suretyship.

Discharge of surety, when creditor compounds with, gives time to, or agrees not to sue principal debtor.

CXXXV. A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such contract.

Surety not discharged, when agreement made with a third person to give time to principal debtor.

CXXXVI. Where a contract to give time to the principal debtor is made by the creditor with a third person, and not with the principal debtor, the surety is not discharged.

Illustration.

C, the holder of an overdue bill of exchange drawn by A as surety for B, and accepted by B, contracts with M to give time to B. A is not discharged.

Creditor's forbearance to sue does not discharge surety.

CXXXVII. Mere forbearance on the part of the creditor to sue the principal debtor, or to enforce any other remedy against him, does not, in the absence of any provision in the guarantee to the contrary, discharge the surety.

Illustration.

B owes to C a debt guaranteed by A. The debt becomes payable. C does not sue B for a year after the debt has become payable. A is not discharged from his suretyship.

Release of one co-surety does not discharge others.

CXXXVIII. Where there are co-sureties, a release by the creditor of one of them does not discharge the others; neither does it free the surety so released from his responsibility to the other sureties.

Discharge of surety by creditor's act or omission impairing surety's eventual remedy.

CXXXIX. If the creditor does any act which is inconsistent with the rights of the surety, or omits to do any act which his duty to the surety requires him to do, and the eventual remedy of the surety himself against the principal debtor is thereby impaired, the surety is discharged.

Illustrations.

(*a.*) B contracts to build a ship for C for a given sum, to be paid by instalments as the work reaches certain stages. A becomes surety to C for B's due performance of the contract. C, without the knowledge of A, prepays to B the last two instalments. A is discharged by this pre-payment.

(*b.*) C lends money to B on the security of a joint and several promissory note made in C's favour by B and by A as surety for B, together with a bill of sale of B's furniture, which gives power to C to sell the furniture and apply the proceeds in discharge of the note. Subsequently C sells the furniture, but, owing to his misconduct and wilful negligence, only a small price is realized. A is disharged from liability on the note.

(*c.*) A puts M as apprentice to B, and gives a guarantee to B for M's fidelity. B promises on his part that he will, at least once a month, see M make up the cash. B omits to see this done as promised, and M embezzles. A is not liable to B on his guarantee.

Rights of surety on payment or performance.

CXL. Where a guaranteed debt has become due, or default of the principal debtor to perform a guaranteed duty has taken place, the surety, upon payment or performance of all that he is liable for, is invested with all the rights which the creditor had against the principal debtor.

Surety's right to benefit of creditor's securities.

CXLI. A surety is entitled to the benefit of every security, which the creditor has against the principal debtor at the time when the contract of suretyship is entered into, whether the surety knows of the existence of such security or not; and if the creditor loses, or, without the consent of the surety, parts with such security, the surety is discharged to the extent of the value of the security.

Illustrations.

(*a.*) C advances to B, his tenant, 2,000 rupees on the guarantee of A. C has also a further security for the 2,000 rupees by a mortgage of B's furniture. C cancels the mortgage. B becomes insolvent, and C sues A on his guarantee. A is discharged from liability to the amount of the value of the furniture.

(*b.*) C, a creditor, whose advance to B is secured by a decree, receives also a guarantee for that advance from A. C afterwards takes B's goods in execution under the decree, and then, without the knowledge of A, withdraws the execution. A is discharged.

(*c.*) A, as surety for B, makes a bond jointly with B to C to secure a loan from C to B. Afterwards, C obtains from B a further security for the same debt. Subsequently C gives up the further security. A is not discharged.

Guarantee obtained by misrepresentation, invalid.

CXLII. Any guarantee, which has been obtained by means of misrepresentation, made by the creditor or with his knowledge and assent, concerning a material part of the transaction, is invalid.

Guarantee obtained by concealment, invalid.

CXLIII. Any guarantee, which the creditor has obtained by means of keeping silence as to a material circumstance, is invalid.

Illustrations.

(*a.*) A engages B as clerk to collect money for him. B fails to account for some of his receipts, and A in consequence calls upon him to furnish security for his duly accounting. C gives his guarantee for B's duly accounting. A does not acquaint C with B's previous conduct. B afterwards makes default. The guarantee is invalid.

(*b.*) A guarantees to C payment for iron to be supplied by him to B to the amount of 2,000 tons. B and C have privately agreed that B should pay five rupees per ton beyond the market price, such excess to be applied in liquidation of an old debt. This agreement is concealed from A. A is not liable as a surety.

Guarantee on agreement that creditor shall not act on it until co-surety joins.

CXLIV. Where a person gives a guarantee upon a contract that the creditor shall not act upon it until another person has joined in it as co-surety, the guarantee is not valid if that other person does not join.

Implied promise to indemnify surety.

CXLV. In every contract of guarantee there is an implied promise by the principal debtor to indemnify the surety; and the surety is entitled to recover from the principal debtor whatever sum he has rightfully paid under the guarantee, but no sums which he has paid wrongfully.

Illustrations.

(*a.*) B is indebted to C, and A is surety for the debt. C demands payment from A, and on his refusal sues him for the amount. A defends the suit, having reasonable grounds for doing so, but he is compelled to pay the amount of the debt with costs. He can recover from B the amount paid by him for costs, as well as the principal debt.

(*b.*) C lends B a sum of money, and A, at the request of B, accepts a bill of exchange drawn by B upon A to secure the amount. C, the holder of the bill, demands payment of it from A, and on A's refusal to pay sues him upon the bill. A, not having reasonable grounds for so doing, defends the suit, and has to pay the amount of the bill and costs. He can recover from B the amount of the bill, but not the sum paid for costs, as there was no real ground for defending the action.

(*c.*) A guarantees to C, to the extent of 2,000 rupees, payment for rice to be supplied by C to B. C supplies to B rice to a less amount than 2,000 rupees, but obtains from A payment of the sum of 2,000 rupees in respect of the rice supplied. A cannot recover from B more than the price of the rice actually supplied.

Co-sureties liable to contribute equally.

CXLVI. Where two or more persons are co-sureties for the same debt or duty, either jointly or severally, and whether under the same or different contracts, and whether with or without the knowledge of each other, the co-sureties, in the absence of any contract to the contrary, are liable, as between themselves, to pay each an equal share of the whole debt, or of that part of it which remains unpaid by the principal debtor.

Illustrations.

(*a.*) A, B, and C are sureties to D for the sum of 3,000 rupees lent to E. E makes default in payment. A, B, and C are liable as between themselves to pay 1,000 rupees each.

(*b.*) A, B, and C are sureties to D for the sum of 1,000 rupees lent to E, and there is a contract between A, B, and C that A is to be responsible to the extent of one-quarter, B to the extent of one-quarter, and C to the extent of one-half. E makes default in payment. As between the sureties, A is liable to pay 250 rupees, B 250 rupees, and C 500 rupees.

Liability of co-sureties bound in different sums.

CXLVII. Co-sureties, who are bound in different sums, are liable to pay equally as far as the limits of their respective obligations permit.

Illustrations.

(*a.*) A, B, and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 30,000 rupees. A, B, and C are each liable to pay 10,000 rupees.

(*b.*) A, B, and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 40,000 rupees. A is liable to pay 10,000 rupees, and B and C 15,000 rupees each.

(*c.*) A, B, and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 70,000 rupees. A, B, and C have to pay each the full penalty of his bond.

CHAPTER IX.

OF BAILMENT.

'Bailment,' 'bailor,' and 'bailee' defined.

CXLVIII. A bailment is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the bailor. The person to whom they are delivered is called the bailee.

Explanation.—If a person, already in possession of the goods of another, contracts to hold them as a bailee, he thereby becomes the bailee, and the owner becomes the bailor of such goods, although they may not have been delivered by way of bailment.

Delivery to bailee how made.

CXLIX. The delivery to the bailee may be made by doing anything which has the effect of putting the goods in the possession of the intended bailee, or of any person authorized to hold them on his behalf.

Bailor's duty to disclose faults in goods bailed.

CL. The bailor is bound to disclose to the bailee faults in the goods bailed, of which the bailor is aware, and which materially interfere with the use of them or expose the bailee to extraordinary risks; and if he does not make such disclosure, he is responsible for damage arising to the bailee directly from such faults.

If the goods are bailed for hire, the bailor is responsible for such damage, whether he was or was not aware of the existence of such faults in the goods bailed.

Illustrations.

(*a.*) A lends a horse, which he knows to be vicious, to B. He does not disclose the fact that the horse is vicious. The horse runs away. B is thrown and injured. A is responsible to B for damage sustained.

(*b.*) A hires a carriage of B. The carriage is unsafe, though B is not aware of it, and A is injured. B is responsible to A for the injury.

Care to be taken by bailee.

CLI. In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality, and value as the goods bailed.

Bailee when not liable for loss, &c., of thing bailed.

CLII. The bailee, in the absence of any special contract, is not responsible for the loss, destruction, or deterioration of the thing bailed, if he has taken the amount of care of it described in Section 151.

Termination of bailment, by bailee's act inconsistent with conditions.

CLIII. A contract of bailment is voidable at the option of the bailor, if the bailee does any act, with regard to the goods bailed, inconsistent with the conditions of the bailment.

Illustration.

A lets to B for hire a horse for his own riding. B drives the horse in his carriage. This is, at the option of A, a termination of the bailment.

Liability of bailee making unauthorized use of goods bailed.

CLIV. If the bailee makes any use of the goods bailed which is not according to the conditions of the bailment, he is liable to make compensation to the bailor for any damage arising to the goods from or during such use of them.

Illustrations.

(*a*) A lends a horse to B for his own riding only. B allows C, a member of his family, to ride the horse. C rides with care, but the horse accidentally falls and is injured. B is liable to make compensation to A for the injury done to the horse.

(*b*.) A hires a horse in Calcutta from B expressly to march to Benares A rides with due care, but marches to Cuttack instead The horse accidentally falls and is injured. A is liable to make compensation to B for the injury to the horse.

Effect of mixture, without bailor's consent, of his goods with goods of bailee.

CLV. If the bailee, with the consent of the bailor, mixes the goods of the bailor with his own goods, the bailor and the bailee shall have an interest, in proportion to their respective shares, in the mixture thus produced.

Effect of mixture, without bailor's consent, when the goods can be separated.

CLVI. If the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, and the goods can be separated or divided, the property in the goods remains in the parties respectively; but the bailee is bound to bear the expense of separation or division, and any damage arising from the mixture.

Illustration.

A bails 100 bales of cotton marked with a particular mark to B. B without A's consent, mixes the 100 bales with other bales of his own bearing a different mark: A is entitled to have his 100 bales returned, and B is bound to bear all the expense incurred in the separation of the bales and any other incidental damage.

Effect of mixture, without bailor's consent, when the goods cannot be separated.

CLVII. If the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, in such a manner that it is impossible to separate the goods bailed from the other goods, and deliver them back, the bailor is entitled to be compensated by the bailee for the loss of the goods.

Illustration.

A bails a barrel of Cape flour, worth Rs. 45, to B. B, without A's consent, mixes the flour with country flour of his own, worth only Rs. 25 a barrel. B must compensate A for the loss of his flour.

Re-payment by bailor of necessary expenses.

CLVIII. Where, by the conditions of the bailment, the goods are to be kept or to be carried, or to have work done upon them by the bailee for the bailor, and the bailee is to receive no remuneration, the bailor shall re-pay to the bailee the necessary expenses incurred by him for the purpose of the bailment.

Restoration of goods bailed gratuitously.

CLIX. The lender of a thing for use may at any time require its return, if the loan was gratuitous, even though he lent it for a specified time or purpose. But if, on the faith of such loan, made for a specified time or purpose, the borrower has acted in such a manner that the return of the thing lent before the time agreed upon would cause him loss exceeding the benefit actually derived by him from the loan, the lender must, if he compels the return, indemnify the borrower for the amount in which the loss so occasioned exceeds the benefit so derived.

Return of goods bailed, on expiration of time or accomplishment of purpose.

CLX. It is the duty of the bailee to return, or deliver according to the bailor's directions, the goods bailed, without demand, as soon as the time for which they were bailed has expired, or the purpose for which they were bailed has been accomplished.

Bailee's responsibility, when goods are not duly delivered or tendered.

CLXI. If by the fault of the bailee the goods are not returned, delivered, or tendered at the proper time, he is responsible to the bailor for any loss, destruction, or deterioration of the goods from that time.

Termination of gratuitous bailment by death.

CLXII. A gratuitous bailment is terminated by the death either of the bailor or of the bailee.

Bailor entitled to increase or profit from goods bailed.

CLXIII. In the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, or according to his directions, any increase or profit which may have accrued from the goods bailed.

Illustration.

A leaves a cow in the custody of B to be taken care of. The cow has a calf. B is bound to deliver the calf as well as the cow to A.

Bailor's responsibility to bailee.

CLXIV. The bailor is responsible to the bailee for any loss which the bailee may sustain by reason that the bailor was not entitled to make the bailment, or to receive back the goods, or to give directions respecting them.

Bailment by several joint owners.

CLXV. If several joint owners of goods bail them, the bailee may deliver them back to, or according to the directions of one joint owner without the consent of all, in the absence of any agreement to the contrary.

Bailee not responsible on re delivery to bailor without title.

CLXVI. If the bailor has no title to the goods, and the bailee, in good faith, delivers them back to, or according to the directions of the bailor, the bailee is not responsible to the owner in respect of such delivery.

Right of third person claiming goods bailed.

CLXVII. If a person, other than the bailor, claims goods bailed, he may apply to the Court to stop the delivery of the goods to the bailor, and to decide the title to the goods.

Right of finder of goods.

CLXVIII. The finder of goods has no right to sue the owner for compensation for trouble and expense voluntarily incurred by him to preserve the goods and to find out the owner; but he may retain the goods

against the owner until he receives such compensation; and where the owner has offered a specific reward for the return of goods lost, the finder may sue for such reward, and may retain the goods until he receives it.

May sue for specific reward offered.

CLXIX. When a thing, which is commonly the subject of sale, is lost, if the owner cannot with reasonable diligence be found, or if he refuses, upon demand, to pay the lawful charges of the finder, the finder may sell it—

When finder of thing commonly on sale may sell it.

(1.)—When the thing is in danger of perishing or of losing the greater part of its value, or

(2.)—When the lawful charges of the finder, in respect of the thing found, amount to two-thirds of its value.

CLXX. Where the bailee has, in accordance with the purpose of the bailment, rendered any service involving the exercise of labour or skill in respect of the goods bailed, he has, in the absence of a contract to the contrary, a right to retain such goods until he receives due remuneration for the services he has rendered in respect of them.

Bailee's particular lien.

Illustrations.

(*a.*) A delivers a rough diamond to B, a jeweller, to be cut and polished, which is accordingly done. B is entitled to retain the stone till he is paid for the services he has rendered.

(*b.*) A gives cloth to B, a tailor, to make into a coat. B promises A to deliver the coat as soon as it is finished, and to give A three months' credit for the price. B is not entitled to retain the coat until he is paid.

CLXXI. Bankers, factors, wharfingers, attorneys of a High Court, and policy brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to that effect.

General lien confined to bankers, factors, wharfingers, attorneys, and policy brokers.

Bailments of Pledges.

CLXXII. The bailment of goods as security for payment of a debt or performance of a promise is called pledge. The bailor is in this case called the pawnor; the bailee is called the pawnee.

'Pledge,' 'pawnor,' and 'pawnee' defined.

CLXXIII. The pawnee may retain the goods pledged, not only for payment of the debt or the performance of the promise, but for the interest of the debt, and all necessary expenses incurred by him in respect of the possession or for the preservation of the goods pledged.

Pawnee's right of retainer.

CLXXIV. The pawnee shall not, in the absence of a contract to that effect, retain the goods pledged for any debt or promise other than the debt or promise for which they are pledged; but such contract, in the absence of any thing to the contrary, shall be presumed in regard to subsequent advances made by the pawnee.

Pawnee not to retain for debt or promise other than that for which goods pledged.

Presumption in case of subsequent advances.

Pawnee's right as to extraordinary expenses incurred.

CLXXV. The pawnee is entitled to receive from the pawnor extraordinary expenses incurred by him for the preservation of the goods pledged.

Pawnee's right, where pawnor makes default.

CLXXVI. If the pawnor makes default in payment of the debt, or performance, at the stipulated time, of the promise, in respect of which the goods were pledged, the pawnee may bring a suit against the pawnor upon the debt or promise, and retain the goods pledged as a collateral security; or he may sell the thing pledged, on giving the pawnor reasonable notice of the sale.

If the proceeds of such sale are less than the amount due in respect of the debt or promise, the pawnor is still liable to pay the balance. If the proceeds of the sale are greater than the amount so due, the pawnee shall pay over the surplus to the pawnor.

Defaulting pawnor's right to redeem.

CLXXVII. If a time is stipulated for the payment of the debt, or performance of the promise, for which the pledge is made, and the pawnor makes default in payment of the debt or performance of the promise at the stipulated time, he may redeem the goods pledged at any subsequent time before the actual sale of them; but he must in that case pay, in addition, any expenses which have arisen from his default.

Pledge by possessor of goods or documentary title to goods.

CLXXVIII. A person who is in possession of any goods, or of any bill of lading, dock-warrant, warehouse-keeper's certificate, wharfinger's certificate, or warrant or order for delivery, or any other document of title to goods, may make a valid pledge of such goods or documents: Provided that the pawnee acts in good faith, and under circumstances which are not such as to raise a reasonable presumption that the pawnor is acting improperly:

Provided also that such goods or documents have not been obtained from their lawful owner, or from any person in lawful custody of them, by means of an offence or fraud.

Pledge where pledgor has only a limited interest.

CLXXIX. Where a person pledges goods in which he has only a limited interest, the pledge is valid to the extent of that interest.

SUITS BY BAILEES OR BAILORS AGAINST WRONGDOERS.

Suits by bailor or bailee against wrongdoers.

CLXXX. If a third person wrongfully deprives the bailee of the use or possession of the goods bailed, or does them any injury, the bailee is entitled to use such remedies as the owner might have used in the like case, if no bailment had been made; and either the bailor or the bailee may bring a suit against a third person for such deprivation or injury.

Apportionment of relief or compensation obtained by such suits.

CLXXXI. Whatever is obtained by way of relief or compensation in any such suit shall, as between the bailor and the bailee, be dealt with according to their respective interests.

CHAPTER X.

AGENCY.

APPOINTMENT AND AUTHORITY OF AGENTS.

'Agent' and 'principal' defined.

CLXXXII. An agent is a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the principal.

Who may employ agent.

CLXXXIII. Any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.

Who may be an agent.

CLXXXIV. As between the principal and third persons, any person may become an agent; but no person who is not of the age of majority and of sound mind can become an agent, so as to be responsible to his principal according to the provisions in that behalf herein contained.

Consideration not necessary.

CLXXXV. No consideration is necessary to create an agency.

Agent's authority may be expressed or implied.

CLXXXVI. The authority of an agent may be expressed or implied.

Definitions of express and implied authority.

CLXXXVII. An authority is said to be express, when it is given by words spoken or written. An authority is said to be implied, when it is to be inferred from the circumstances of the case; and things spoken or written, or the ordinary course of dealing, may be accounted circumstances of the case.

Illustration.

A owns a shop in Serampore, living himself in Calcutta, and visiting the shop occasionally. The shop is managed by B, and he is in the habit of ordering goods from C in the name of A for the purposes of the shop, and of paying for them out of A's funds with A's knowledge. B has an implied authority from A to order goods from C in the name of A for the purposes of the shop.

Extent of agent's authority.

CLXXXVIII. An agent, having an authority to do an act, has authority to do every lawful thing which is necessary in order to do such act.

An agent having an authority to carry on a business, has authority to do every lawful thing necessary for the purpose, or usually done in the course of conducting such business.

Illustrations.

(*a.*) A is employed by B, residing in London, to recover at Bombay a debt due to B. A may adopt any legal process necessary for the purpose of recovering the debt, and may give a valid discharge for the same.

(*b.*) A constitutes B his agent to carry on his business of a ship-builder. B may purchase timber and other materials, and hire workmen, for the purpose of carrying on the business.

Agent's authority in an emergency.

CLXXXIX. An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence in his own case under similar circumstances.

Illustrations.

(*a.*) An agent for sale may have goods repaired, if it be necessary.

(*b.*) A consigns provisions to B at Calcutta, with directions to send them immediately to C at Cuttack. B may sell the provisions at Calcutta, if they will not bear the journey to Cuttack without spoiling.

SUB-AGENTS.

When agent cannot delegate.

CXC. An agent cannot lawfully employ another to perform acts which he has expressly or impliedly undertaken to perform personally, unless by the ordinary custom of trade a sub-agent may, or, from the nature of the agency, a sub-agent must, be employed.

'Sub-agent' defined.

CXCI. A sub-agent is a person employed by, and acting under the control of, the original agent in the business of the agency.

Representation of principal by sub-agent properly appointed.

CXCII. Where a sub-agent is properly appointed, the principal is, so far as regards third persons, represented by the sub-agent, and is bound by and responsible for his acts, as if he were an agent originally appointed by the principal.

Responsibility of agent for sub-agent.

The agent is responsible to the principal for the acts of the sub-agent:

Responsibility of sub-agent.

The sub-agent is responsible for his acts to the agent, but not to the principal, except in cases of fraud or wilful wrong.

Responsibility of agent for sub-agent appointed without authority.

CXCIII. Where an agent, without having authority to do so, has appointed a person to act as a sub-agent, the agent stands towards such person in the relation of a principal to an agent, and is responsible for his acts both to the principal and to third persons; the principal is not represented by or responsible for the acts of the person so employed, nor is that person responsible to the principal.

Relation between principal and person duly appointed by agent to act in business of agency.

CXCIV. Where an agent, holding an express or implied authority to name another person to act for the principal in the business of the agency, has named another person accordingly, such person is not a sub-agent, but an agent of the principal for such part of the business of the agency as is entrusted to him.

Illustrations.

(*a.*) A directs B, his solicitor, to sell his estate by auction, and to employ an auctioneer for the purpose. B names C, an auctioneer, to conduct the sale. C is not a sub-agent, but is A's agent for the conduct of the sale.

(*b.*) A authorizes B, a merchant in Calcutta, to recover the monies due to A from C & Co. B instructs D, a solicitor, to take legal proceedings against C & Co. for the recovery of the money. D is not a sub-agent, but is solicitor for A.

Agent's duty in naming such person.

CXCV. In selecting such agent for his principal, an agent is bound to exercise the same amount of discretion as a man of ordinary prudence would exercise in his own case; and, if he does this, he is not responsible to the principal for the acts or negligence of the agent so selected.

Illustrations.

(*a.*) A instructs B, a merchant, to buy a ship for him. B employs a ship-surveyor of good reputation to choose a ship for A. The surveyor makes the choice negligently, and the ship turns out to be unseaworthy and is lost. B is not, but the surveyor is, responsible to A.

(*b.*) A consigns goods to B, a merchant, for sale. B, in due course, employs an auctioneer in good credit to sell the goods of A, and allows the auctioneer to receive the proceeds of the sale. The auctioneer afterwards becomes insolvent without having accounted for the proceeds. B is not responsible to A for the proceeds.

RATIFICATION.

Right of person as to acts done for him without his authority

Effect of ratification.

CXCVI. Where acts are done by one person on behalf of another, but without his knowledge or authority, he may elect to ratify or to disown such acts. If he ratify them, the same effects will follow as if they had been performed by his authority.

Ratification may be expressed or implied.

CXCVII. Ratification may be expressed or may be implied in the conduct of the person on whose behalf the acts are done.

Illutrations.

(*a.*) A, without authority, buys goods for B. Afterwards B sells them to C on his own account; B's conduct implies a ratification of the purchase made for him by A.

(*b.*) A, without B's authority, lends B's money to C. Afterwards B accepts interest on the money from C. B's conduct implies a ratification of the loan.

Knowledge requisite to valid ratification.

CXCVIII. No valid ratification can be made by a person whose knowledge of the facts of the case is materially defective.

Effect of ratifying an unauthorized act forming part of a transaction.

CXCIX. A person ratifying any unauthorized act done on his behalf, ratifies the whole of the transaction, of which such act formed a part.

Ratification of unauthorized act cannot injure third person.

CC. An act done by one person on behalf of another without such other person's authority, which, if done with authority, would have the effect of subjecting a third person to damages, or of terminating any right or interest of a third person, cannot, by ratification, be made to have such effect.

Illustrations.

(*a*) A, not being authorized thereto by B, demands, on behalf of B, the delivery of a chattel, the property of B, from C, who is in possession of it. This demand cannot be ratified by B, so as to make C liable for damages for his refusal to deliver.

(*b.*) A holds a lease from B, terminable on three months' notice. C, an unauthorized person, gives notice of termination to A. The notice cannot be ratified by B, so as to be binding on A.

REVOCATION OF AUTHORITY.

Termination of agency.

CCI. An agency is terminated by the principal revoking his authority; or by the agent renouncing the business of the agency; or by the business of the agency being completed; or by either the principal or agent dying or becoming of unsound mind; or by the principal being adjudicated an insolvent under the provisions of any Act for the time being in force for the relief of insolvent debtors.

Termination of agency, where agent has an interest in subject matter.

CCII. Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

Illustrations.

(*a*) A gives authority to B to sell A's land, and to pay himself out of the proceeds the debts due to him from A. A cannot revoke this authority, nor can it be terminated by his insanity or death.

(*b*) A consigns 1,000 bales of cotton to B, who has made advances to him on such cotton, and desires B to sell the cotton, and to repay himself out of the price the amount of his own advances. A cannot revoke this authority, nor is it terminated by his insanity or death.

When principal may revoke authority of agent.

CCIII. The principal may, save as is otherwise provided by the last preceding section, revoke the authority given to his agent at any time before the authority has been exercised, so as to bind the principal.

Revocation, where authority has been partly exercised.

CCIV. The principal cannot revoke the authority given to his agent after the authority has been partly exercised, so far as regards such acts and obligations as arise from acts already done in the agency.

Illustrations.

(*a.*) A authorized B to buy 1,000 bales of cotton on account of A, and to pay for it out of A's monies remaining in B's hands. B buys 1,000 bales of cotton in his own name, so as to make himself personally liable for the price. A cannot revoke B's authority, so far as regards payment for the cotton.

(*b.*) A authorizes B to buy 1,000 bales of cotton on account of A, and to pay for it out of A's monies remaining in B's hands. B buys 1,000 bales of cotton in A's name, and so as not to render himself personally liable for the price. A can revoke B's authority to pay for the cotton.

Compensation for revocation by principal or renunciation by agent.

CCV. Where there is an express or implied contract that the agency should be continued for any period of time, the principal must make compensation to the agent, or the agent to the principal, as the case may be, for any previous revocation or renunciation of the agency without sufficient cause.

Notice of revocation or renunciation.

CCVI. Reasonable notice must be given of such revocation or renunciation, otherwise the damage thereby resulting to the principal or the agent, as the case may be, must be made good to the one by the other.

Revocation and renunciation may be expressed or implied.

CCVII. Revocation and renunciation may be expressed or may be implied in the conduct of the principal or agent respectively.

Illustration.

A empowers B to let A's house. Afterwards A lets it himself. This is an implied revocation of B's authority.

When termination of agent's authority takes effect as to agent, and as to third persons.

CCVIII. The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them.

Illustrations.

(*a.*) A directs B to sell goods for him, and agrees to give B five per cent. commission on the price fetched by the goods. A afterwards, by letter, revokes B's authority. B, after the letter is sent, but before he receives it, sells the goods for 100 rupees. The sale is binding on A, and B is entitled to five rupees as his commission.

(*b.*) A, at Madras, by letter directs B to sell for him some cotton lying in a warehouse in Bombay, and afterwards, by letter, revokes his authority to sell, and directs B to send the cotton to Madras. B, after receiving the second letter, enters into a contract with C, who knows of the first letter, but not of the second, for the sale to him of the cotton. C pays B the money, with which B absconds. C's payment is good as against A.

(*c.*) A directs B, his agent, to pay certain money to C. A dies, and D takes out probate to his will. B, after A's death, but before hearing of it, pays the money to C. The payment is good as against D, the executor.

Agent's duty on termination of agency by principal's death or insanity.

CCIX When an agency is terminated by the principal dying or becoming of unsound mind, the agent is bound to take, on behalf of the representatives of his late principal, all reasonable steps for the protection and preservation of the interests entrusted to him.

Termination of sub-agent's authority.

CCX. The termination of the authority of an agent causes the termination (subject to the rules herein contained regarding the termination of an agent's authority) of the authority of all sub-agents appointed by him.

AGENT'S DUTY TO PRINCIPAL.

Agent's duty in conducting principal's business.

CCXI. An agent is bound to conduct the business of his principal according to the directions given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal; and if any profit accrues, he must account for it.

Illustrations.

(*a.*) A, an agent engaged in carrying on for B a business, in which it is the custom to invest from time to time, at interest, the monies which may be in hand, omits to make such investment. A must make good to B the interest usually obtained by such investments.

(*b.*) B, a broker, in whose business it is not the custom to sell on credit, sells goods of A on credit to C, whose credit at the time was very high. C, before payment, becomes insolvent. B must make good the loss to A.

Skill and diligence required from agent.

CCXII. An agent is bound to conduct the business of the agency with as much skill as is generally possessed by persons engaged in similar business, unless the principal has notice of his want of skill. The agent is always bound to act with reasonable diligence, and to use such skill as he possesses; and to make compensation to his principal in respect of the direct consequences of his own neglect, want of skill, or misconduct, but not in respect of loss or damage which are indirectly or remotely caused by such neglect, want of skill, or misconduct.

Illustrations.

(*a.*) A, a merchant in Calcutta, has an agent, B, in London, to whom a sum of money is paid on A's account, with orders to remit B retains money for a considerable time. A, in consequence of not receiving the money, becomes insolvent. B is liable for the money and interest from the day on which it ought to have been paid, according to the usual rate, and for any further direct loss—as, *e.g.*, by variation of rate of exchange—but not further.

(*b.*) A, an agent for the sale of goods, having authority to sell on credit, sells to B, on credit, without making the proper and usual enquiries as to the solvency of B. B, at the time of such sale, is insolvent. A must make compensation to his principal in respect of any loss thereby sustained.

(*c.*) A, an insurance broker, employed by B to effect an insurance on a ship, omits to see that the usual clauses are inserted in the policy. The ship is afterwards lost. In consequence of the omissions of the clauses nothing can be recovered from the underwriters. A is bound to make good the loss to B.

(*d.*) A, a merchant in England, directs B, his agent at Bombay, who accepts the agency, to send him 100 bales of cotton by a certain ship. B, having it in his power to send the cotton, omits to do so. The ship arrives safely in England. Soon after her arrival the price of cotton rises. B is bound to make good to A the profit which he might have made by the 100 bales of cotton at the time the ship arrived, but not any profit he might have made by the subsequent rise.

Agent's accounts.

CCXIII. An agent is bound to render proper accounts to his principal on demand.

Agent's duty to communicate with principal.

CCXIV. It is the duty of an agent, in cases of difficulty, to use all reasonable diligence in communicating with his principal, and in seeking to obtain his instructions.

Right of principal when agent deals on his own account in business of agency without principal's consent.

CCXV. If an agent deals on his own account in the business of the agency, without first obtaining the consent of his principal and acquainting him with all material circumstances which have come to his own knowledge on the subject, the principal may repudiate the transaction, if the case show, either that any material fact has been dishonestly concealed from him by the agent, or that the dealings of the agent have been disadvantageous to him.

Illustrations.

(*a.*) A directs B to sell A's estate. B buys the estate for himself in the name of C. A, on discovering that B has bought the estate for himself, may repudiate the sale, if he can show that B has dishonestly concealed any material fact, or that the sale has been disadvantageous to him.

(*b.*) A directs B to sell A's estate. B, on looking over the estate before selling it, finds a mine on the estate which is unknown to A. B informs A that he wishes to buy the estate for himself, but conceals the discovery of the mine. A allows B to buy, in ignorance of the existence of the mine. A, on discovering that B knew of the mine at the time he bought the estate, may either repudiate or adopt the sale at his option.

Principal's right to benefit gained by agent dealing on his own account in business of agency.

CCXVI. If an agent, without the knowledge of his principal, deals in the business of the agency on his own account instead of on account of his principal, the principal is entitled to claim from the agent any benefit which may have resulted to him from the transaction.

Illustration.

A directs B, his agent, to buy a certain house for him. B tells A it cannot be bought, and buys the house for himself. A may, on discovering that B has bought the house, compel him to sell it to A at the price he gave for it.

Agent's right of retainer out of sums received on principal's account.

CCXVII. An agent may retain, out of any sums received on account of the principal in the business of the agency, all monies due to himself in respect of advances made or expenses properly incurred by him in conducting such business, and also such remuneration as may be payable to him for acting as agent.

Agent's duty to pay to principal all sums received for him.

CCXVIII. Subject to such deductions, the agent is bound to pay to his principal all sums received on his account.

When agent's remuneration becomes due.

CCXIX. In the absence of any special contract, payment for the performance of any act is not due to the agent until the completion of such act; but an agent may detain moneys received by him on account of goods sold, although the whole of the goods consigned to him for sale may not have been sold, or although the sale may not be actually complete.

Agent not entitled to remuneration for business misconducted.

CCXX. An agent, who is guilty of misconduct in the business of the agency, is not entitled to any remuneration in respect of that part of the business which he has misconducted.

Illustrations.

(*a.*) A employs B to recover 1,00,000 rupees from C, and to lay it out on good security. B recovers the 1,00,000 rupees and lays out 90,000 rupees on good security, but lays out 10,000 rupees on security, which he ought to have known to be bad, whereby A loses 2,000 rupees. B is entitled to remuneration for recovering the 1,00,000 rupees and for investing the 90,000 rupees. He is not entitled to any remuneration for investing the 10,000 rupees, and he must make good the 2,000 rupees to B.

(*b.*) A employs B to recover 1,000 rupees from C. Through B's misconduct the money is not recovered. B is entitled to no remuneration for his services, and must make good the loss.

Agent's lien on principal's goods and papers.

CCXXI. In the absence of any contract to the contrary, an agent is entitled to retain goods, papers, and other property, whether movable or immovable, of the principal received by him, until the amount due to himself for commission, disbursement, and services in respect of the same has been paid or accounted for to him.

PRINCIPAL'S DUTY TO AGENT.

Agent to be indemnified for consequences of lawful acts.

CCXXII. The employer of an agent is bound to indemnify him against the consequences of all lawful acts done by such agent in exercise of the authority conferred upon him.

Illustrations.

(*a.*) B, at Singapore, under instructions from A of Calcutta, contracts with C to deliver certain goods to him. A does not send the goods to B, and C sues B for breach of contract. B informs A of the suit, and A authorizes him to defend the suit. B defends the suit, and is compelled to pay damages and costs, and incurs expenses. A is liable to B for such damages, costs, and expenses.

(*b*) B, a broker at Calcutta, by the orders of A, a merchant there, contracts with C for the purchase of 10 casks of oil for A. Afterwards A refuses to receive the oil, and C sues B. B informs A, who repudiates the contract altogether. B defends, unsuccessfully, and has to pay damages and costs and incurs expenses. A is liable to B for such damages, costs, and expenses.

Agent to be indemnified for consequences of acts done in good faith.

CCXXIII. Where one person employs another to do an act, and the agent does the act in good faith, the employer is liable to indemnify the agent against the consequences of that act, though it cause an injury to the rights of third persons.

Illustrations.

(*a.*) A, a decree-holder and entitled to execution of B's goods, requires the officer of the Court to seize certain goods representing them to be the goods of B. The officer seizes the goods, and is sued by B, the true owner of the goods. A is liable to indemnify the officer for the sum which he is compelled to pay to C, in consequence of obeying A's directions.

(*b.*) B, at the request of A, sells goods in the possession of A, but which A had no right to dispose of. B does not know this, and hands over the proceeds of the sale to A. Afterwards C, the true owner of the goods, sues B and recovers the value of the goods and costs. A is liable to indemnify B for what he has been compelled to pay to C, and for B's own expenses.

Non-liability of employer of agent to do a criminal act.

CCXXIV. Where one person employs another to do an act which is criminal, the employer is not liable to the agent, either upon an express or an implied promise, to indemnify him against the consequences of that act.

Illustrations.

(*a.*) A employs B to beat C, and agrees to indemnify him against all consequences of the act. B thereupon beats C, and has to pay damages to C for so doing. A is not liable to indemnify B for those damages.

(*b.*) B, the proprietor of a newspaper, publishes, at A's request, a libel upon C in the paper, and A agrees to indemnify B against the consequences of the publication, and all costs and damages of any action in respect thereof. B is sued by C and has to pay damages, and also incurs expenses. A is not liable to B upon the indemnity.

Compensation to agent for injury caused by principal's neglect.

CCXXV. The principal must make compensation to his agent is in respect of injury caused to such agent by the principal's neglect or want of skill.

Illustration.

A employes B as a bricklayer in building a house, and puts up the scaffolding himself. The scaffolding is unskilfully put up, and B is in consequence hurt. A must make compensation to B.

EFFECT OF AGENCY ON CONTRACTS WITH THIRD PERSONS.

Enforcement and consequences of agent's contracts.

CCXXVI. Contracts entered into through an agent, and obligations arising from acts done by an agent, may be enforced in the same manner, and will have the same legal consequences, as if the contracts had been entered into and the acts done by the principal in person.

Illustrations.

(*a.*) A buys goods from B knowing that he is an agent for their sale, but not knowing who is the principal. B's principal is the person entitled to claim from A the price of the goods, and A cannot, in a suit by the principal, set off against that claim a debt due to himself from B.

(*b.*) A, being B's agent, with authority to receive money on his behalf, receives from C a sum of money due to B. C is discharged of his obligation to pay the sum in question to B.

Principal how far bound when agent exceeds authority.

CCXXVII. When an agent does more than he is authorized to do, and when the part of what he does, which is within his authority, can be separated from the part which is beyond his authority, so much only of what he does as is within his authority is binding as between him and his principal.

Illustration.

A, being owner of a ship and cargo, authorizes B to procure an insurance for 4,000 rupees on the ship. B procures a policy for 4,000 rupees on the ship, and another for the like sum on the cargo. A is bound to pay the premium for the policy on the ship, but not the premium for the policy on the cargo.

Principal not bound when excess of agent's authority is not separable.

CCXXVIII. Where an agent does more than he is authorized to do, and what he does beyond the scope of his authority cannot be separated from what is within it, the principal is not bound to recognize the transaction.

Illustration.

A authorizes B to buy 500 sheep for him. B buys 500 sheep and 200 lambs for one sum of 6,000 rupees. A may repudiate the whole transaction.

Consequences of notice given to agent.

CCXXIX. Any notice given to or information obtained by the agent, provided it be given or obtained in the course of the business transacted by him for the principal, shall, as between the principal and third parties, have the same legal consequence as if it had been given to or obtained by the principal.

Illustrations.

(*a.*) A is employed by B to buy from C certain goods, of which C is the apparent owner, and buys them accordingly. In the course of the treaty for the sale, A learns that the goods really belonged to D, but B is ignorant of that fact. B is not entitled to set-off a debt owing to him from C against the price of the goods.

(*b.*) A is employed by B to buy from C goods of which C is the apparent owner. A was, before he was so employed, a servant of C, and then learnt that the goods really belonged to D, but B is ignorant of that fact. In spite of the knowledge of his agent, B may set-off against the price of the goods a debt owing to him from C.

Agent cannot personally enforce, nor be bound by, contracts on behalf of principal.

Presumption of contract to contrary.

CCXXX. In the absence of any contract to that effect, an agent cannot personally enforce contracts entered into by him on behalf of his principal, nor is he personally bound by them.

Such a contract shall be presumed to exist in the following cases:—

(1.)—Where the contract is made by an agent for the sale or purchase of goods for a merchant resident abroad:

(2.)—Where the agent does not disclose the name of his principal:

(3.)—Where the principal, though disclosed, cannot be sued.

Rights of parties to a contract made by agent not disclosed.

CCXXXI. If an agent makes a contract with a person who neither knows, nor has reason to suspect, that he is an agent, his principal may require the performance of the contract: but the other contracting party has, as against the principal, the same rights as he would have had as against the agent if the agent had been principal.

If the principal discloses himself before the contract is completed, the other contracting party may refuse to fulfil the contract, if he can show that, if he had known who was the principal in the contract, or if he had known that the agent was not a principal, he would not have entered into the contract.

Performance of contract with agent supposed to be principal.

CCXXXII. Where one man makes a contract with another, neither knowing nor having reasonable ground to suspect that the other is an agent, the principal, if he requires the performance of the contract, can only obtain such performance subject to the rights and obligations subsisting between the agent and the other party to the contract.

Illustration.

A, who owes 500 rupees to B, sells 1,000 rupees worth of rice to B. A is acting as agent for C in the transaction, but B has no knowledge nor reasonable ground of suspicion that such is the case. C cannot compel B to take the rice without allowing him to set-off A's debt.

Right of person dealing with agent personally liable.

CCXXXIII. In cases where the agent is personally liable, a person dealing with him may hold either him or his principal, or both of them, liable.

Illustration.

A enters into a contract with B to sell him 100 bales of cotton, and afterwards discovers that B was acting as agent for C. A may sue either B or C, or both, for the price of the cotton.

Consequence of inducing agent or principal to act on belief that principal or agent will be held exclusively liable.

CCXXXIV. When a person who has made a contract with an agent induces the agent to act upon the belief that the principal only will be held liable, or induces the principal to act upon the belief that the agent only will be held liable, he cannot afterwards hold liable the agent or principal respectively.

Liability of pretended agent.

CCXXXV. A person untruly representing himself to be the authorized agent of another, and thereby inducing a third person to deal with him as such agent, is liable, if his alleged employer does not ratify his acts, to make compensation to the other in respect of any loss or damage which he has incurred by so dealing.

Person falsely contracting as agent, not entitled to performance.

CCXXXVI. A person, with whom a contract has been entered into in the character of agent, is not entitled to require the performance of it, if he was in reality acting, not as agent, but on his own account.

Liability of principal inducing belief that agent's unauthorized acts were authorized.

CCXXXVII. When an agent has, without authority, done acts or incurred obligations to third persons on behalf of his principal, the principal is bound by such acts or obligations if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority.

Illustrations.

(*a.*) A consigns goods to B for sale, and gives him instructions not to sell under a fixed price. C, being ignorant of B's instructions, enters into a contract with B to buy the goods at a price lower than the reserve price. A is bound by the contract.

(*b.*) A entrusts B with negotiable instruments endorsed in blank. B sells them to C in violation of private orders from A. The sale is good.

Effect on agreement of misrepresentation or fraud by agent.

CCXXXVIII. Misrepresentations made, or frauds committed, by agents acting in the course of their business for their principals, have the same effect on agreements made by such agents as if such misrepresentations or fraud had been made or committed by the principals; but misrepresentations made, or frauds committed, by agents, in matters which do not fall within their authority, do not affect their principals.

Illustrations.

(*a.*) A, being B's agent for the sale of goods, induces C to buy them by a misrepresentation, which he was not authorized by B to make. The contract is voidable, as between B and C, at the option of C.

(*b.*) A, the Captain of B's ship, signs bills of lading without having received on board the goods mentioned therein. The bills of lading are void as between B and the pretended consignor.

CHAPTER XI.

OF PARTNERSHIP.

'Partnership' defined.

CCXXXIX. 'Partnership' is the relation which subsists between persons who have agreed to combine their property, labour, or skill in some business, and to share the profits thereof between them.

'Firm' defined.

Persons who have entered into partnership with one another are called collectively a 'firm.'

Illustrations.

(*a.*) A and B buy 100 bales of cotton, which they agree to sell for their joint account: A and B are partners in respect of such cotton.

(*b.*) A and B buy 100 bales of cotton, agreeing to share it between them. A and B are not partners.

(*c.*) A agrees with B, a goldsmith, to buy and furnish gold to B, to be worked up by him and sold, and that they shall share in the resulting profit or loss. A and B are partners.

(*d.*) A and B agree to work together as carpenters, but that A shall receive all profits, and shall pay wages to B. A and B are not partners.

(*e.*) A and B are joint owners of a ship. This circumstance does not make them partners.

Lender not a partner by advancing money for share of profits.

CCXL. A loan to a person engaged or about to engage in any trade or undertaking, upon a contract with such person that the lender shall receive interest at a rate varying with the profits, or that he shall receive a share of the profits, does not, of itself, constitute the lender a partner, or render him responsible as such.

Property left in business by retiring partner or deceased partner's representative.

CCXLI. In the absence of any contract to the contrary, property left by a retiring partner, or the representative of a deceased partner, to be used in the business, is to be considered a loan within the meaning of the last preceding section.

Servant or agent remunerated by share of profits, not a partner.

CCXLII. No contract for the remuneration of a servant or agent of any person, engaged in any trade or undertaking by a share of the profits of such trade or undertaking, shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Widow or child of deceased partner receiving annuity out of profits, not a partner.

CCXLIII. No person, being a widow or child of a deceased partner of a trader, and receiving, by way of annuity, a proportion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of such trader, or be subject to any liabilities incurred by him.

Person receiving portion of profits for sale of good-will, not a partner.

CCXLIV. No person receiving, by way of annuity or otherwise, a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of the person carrying on such business, or be subject to his liabilities.

Responsibility of person leading another to believe him a partner.

CCXLV. A person who has, by words spoken or written, or by his conduct, led another to believe that he is a partner in a particular firm, is responsible to him as a partner in such firm.

Liability of person permitting himself to be represented as a partner.

CCXLVI. Any one consenting to allow himself to be represented as a partner, is liable, as such, to third persons, who, on the faith thereof, give credit to the partnership.

Minor partner not personally liable, but his share is.

CCXLVII. A person who is under the age of majority according to the law to which he is subject, may be admitted to the benefits of partnership, but cannot be made personally liable for any obligation of the firm; but the share of such minor in the property of the firm is liable for the obligations of the firm.

Liability of minor partner on attaining majority.

CCXLVIII. A person who has been admitted to the benefits of partnership under the age of majority, becomes, on attaining that age, liable for all obligations incurred by the partnership since he was so admitted, unless he gives public notice, within a reasonable time, of his repudiation of the partnership.

CCXLIX. Every partner is liable for all debts and obligations incurred while he is a partner in the usual course of business by or on behalf of the partnership; but a person who is admitted as a partner into an existing firm, does not thereby become liable to the creditors of such firm for anything done before he became a partner.

Partner's liability for debts of partnership.

CCL. Every partner is liable to make compensation to third persons in respect of loss or damage arising from the neglect or fraud of any partner in the management of the business of the firm.

Partner's liability to third person for neglect or fraud of co-partner.

CCLI. Each partner, who does any act necessary for, or usually done in carrying on, the business of such a partnership as that of which he is a member, binds his co-partners to the same extent as if he were their agent duly appointed for that purpose.

Partner's power to bind co-partners.

Exception.—If it has been agreed between the partners that any restriction shall be placed upon the power of any one of them, no act done in contravention of such agreement shall bind the firm with respect to persons having notice of such agreement.

Illustrations.

(*a.*) A and B trade in partnership, A residing in England and B in India. A draws a bill of exchange in the name of the firm. B has no notice of the bill, nor is he at all interested in the transaction. The firm is liable on the bill, provided the holder did not know of the circumstances under which the bill was drawn.

(*b.*) A, being one of a firm of solicitors and attorneys, draws a bill of exchange in the name of the firm without authority. The other partners are not liable on the bill.

(*c.*) A and B carry on business in partnership as bankers. A sum of money is received by A on behalf of the firm. A does not inform B of such receipt, and afterwards A appropriates the money to his own use. The partnership is liable to make good the money.

(*d.*) A and B are partners. A, with the intention of cheating B, goes to a shop and purchases articles on behalf of the firm, such as might be used in the ordinary course of the partnership business, and converts them to his own separate use, there being no collusion between him and the seller. The firm is liable for the price of the goods.

CCLII. Where partners have by contract regulated and defined, as between themselves, their rights and obligations, such contract can be annulled or altered only by consent of all of them, which consent must either be expressed or be implied from a uniform course of dealing.

Annulment of contract defining partners' rights and obligations.

Illustration.

A, B, and C, intending to enter into partnership, execute written articles of agreement, by which it is stipulated that the nett profits arising from the partnership business shall be equally divided between them. Afterwards they carry on the partnership business for many years, A receiving one-half of the nett profits, and the other half being divided equally between B and C. All parties know of and acquiesce in this arrangement. This course of dealing supersedes the provision in the articles as to the division of profits.

Rules determining mutual relations of partners, where no contract to the contrary.

CCLIII. In the absence of any contract to the contrary, the relations of partners to each other are determined by the following rules :—

1.—All partners are joint owners of all property originally brought into the partnership stock, or bought with money belonging to the partnership, or acquired for purposes of the partnership business. All

such property is called partnership property. The share of each partner in the partnership property is the value of his original contribution, increased or diminished by his share of profit or loss:

2.—All partners are entitled to share equally in the profits of the partnership business, and must contribute equally towards the losses sustained by the partnership:

3.—Each partner has a right to take part in the management of the partnership business:

4.—Each partner is bound to attend diligently to the business of the partnership, and is not entitled to any remuneration for acting in such business:

5.—When differences arise as to ordinary matters connected with the partnership business, the decision shall be according to the opinion of the majority of the partners; but no change in the nature of the business of the partnership can be made, except with the consent of all the partners:

6.—No person can introduce a new partner into a firm without the consent of all the partners:

7.—If from any cause whatever, any member of a partnership ceases to be so, the partnership is dissolved as between all the other members:

8.—Unless the partnership has been entered into for a fixed term, any partner may retire from it at any time:

9.—Where a partnership has been entered into for a fixed term, no partner can during such term retire, except with the consent of all the partners; nor can he be expelled by his partners for any cause whatever, except by order of Court:

10.—Partnerships, whether entered into for a fixed term or not, are dissolved by the death of any partner.

When Court may dissolve partnership.

CCLIV. At the suit of a partner the Court may dissolve the partnership in the following cases:—

1.—When a partner becomes of unsound mind:

2.—When a partner, other than the partner suing, has been adjudicated an insolvent under any law relating to insolvent debtors:

3.—When a partner, other than the partner suing, has done any act by which the whole interest of such partner is legally transferred to a third person:

4.—When any partner becomes incapable of performing his part of the partnership contract:

5.—When a partner, other than the partner suing, is guilty of gross misconduct in the affairs of the partnership or towards his partners:

6.—When the business of the partnership can only be carried on at a loss.

Dissolution of partnership by prohibition of business.

CCLV. A partnership is in all cases dissolved by its business being prohibited by law.

Rights and obligations of partners in partnership continued after expiry of term for which it was entered into.

CCLVI. If a partnership, entered into for a fixed term, be continued after such term has expired, the rights and obligations of the partners will, in the absence of any agreement to the contrary, remain the same as they were at the expiration of the term, so far as such rights and obligations can be applied to a partnership dissolvable at the will of any partner.

General duties of partners.

CCLVII. Partners are bound to carry on the business of the partnership for the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

Account to firm for benefit derived from transaction affecting partnership.

CCLVIII. A partner must account to the firm for any benefit derived from a transaction affecting the partnership.

Illustrations.

(*a.*) A, B, and C are partners in trade. C, without the knowledge of A and B, obtains for his own sole benefit a lease of the house in which the partnership business is carried on. A and B are entitled to participate, if they please, in the benefit of the lease.

(*b.*) A, B, and C carry on business together in partnership as merchants trading between Bombay and London. D, a merchant in London, to whom they make their consignments, secretly allows C a share of the commission which he receives upon such consignments, in consideration of C's using his influence to obtain the consignments for him. C is liable to account to the firm for the money so received by him.

Obligations to firm, of partner carrying on competing business.

CCLIX. If a partner, without the knowledge and consent of the other partners, carries on any business competing or interfering with that of the firm, he must account to the firm for all profits made in such business, and must make compensation to the firm for any loss occassoned thereby.

Revocation of continuing guarantee by change in firm.

CCLX. A continuing guarantee, given either to a firm or to a third person, in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm, to which, or in respect of the transactions of which, such guarantee was given.

Non-liability of deceased partner's estate for subsequent obligations.

CCLXI. The estate of a partner who has died is not, in the absence of an express agreement, liable in respect of any obligation incurred by the firm after his death.

Payment of partnership debts, and of separate debts.

CCLXII. Where there are joint debts due from the partnership, and also separate debts due from any partner, the partnership property must be applied in the first instance in payment of the debts of the firm, and if there is any surplus, then the share of each partner must be applied in payment of his separate debts, or paid to him. The separate property of any partner must be applied first in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

Continuance of partners' rights and obligations after dissolution.

CCLXIII. After a dissolution of partnership, the rights and obligations of the partners continue in all things necessary for winding up the business of the partnership.

Notice of dissolution.

CCLXIV. Persons dealing with a firm will not be affected by a dissolution, of which no public notice has been given, unless they themselves had notice of such dissolution.

Right of partners to apply for winding up by Court after termination of partnership.

CCLXV. In the absence of any contract to the contrary, after the termination of a partnership, each partner or his representatives may apply to the Court to wind up the business of the firm, to provide for the payment of its debts, and to distribute the surplus according to the shares of the partners respectively.

Explanation.—The Court in this section means a Court not inferior to the Court of a District Judge within the local limits of whose jurisdiction the place or principal place of business of the firm is situated.

Limited liability partnerships, incorporated partnerships, and joint-stock companies.

CCLXVI. Extraordinary partnerships, such as partnerships with limited liability, incorporated partnerships, and joint-stock companies, shall be regulated by the law for the time being in force relating thereto.

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No. and year of Statute Act.	TITLE.	Extent of repeal.
Stat. 29, Car. 2, cap. 3 ...	An Act for prevention of Frauds and Perjuries.	Sections 1, 2, 3, 4, and 17.
Stat. 11 & 12 Vic., cap. 21.	To consolidate and amend the law relating to insolvent debtors in India.	Section 42.
Act XIII. of 1840 ...	An Act for the amendment of the law regarding factors, by extending to the territories of the East India Company, in cases governed by the English law, the provisions of the Stat. 4 Geo. iv., c. 83, as altered and amended by the Stat. 6 Geo. iv., c. 94.	The whole.
Act XIV. of 1840 ...	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements, by extending to the territories of the East India Company, in cases governed by English law, the provisions of Stat. 9 Geo. iv., cap. 14.	The whole.
Act XX. of 1844 ...	An Act to amend the law relating to advances *bonâ fide* made to agents entrusted with goods, by extending to the territories of the East India Company, in cases governed by English law, the provisions of Statute 5 & 6 Vic., c. 39, as altered by this Act.	The whole.
Act XXI. of 1848 ...	An Act for avoiding Wagers ...	The whole.
Act V. of 1866 ...	An Act to provide a summary procedure on bills of exchange, and to amend in certain respects the commercial law of British India.	Sections 9 and 10.
Act XV. of 1866 ...	An Act to amend the law of Partnership in India.	The whole.
Act VIII. of 1867 ...	An Act to amend the law relating to Horse-racing in India.	The whole.

ACT No. X. OF 1872.

THE CODE OF CRIMINAL PROCEDURE.

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An Act for regulating the Procedure of the Courts of Criminal Judicature.

Preamble. Whereas it is expedient to consolidate and amend the law regulating the procedure of the Courts of Criminal Judicature, other than the High Courts in Presidency Towns, in the exercise of their original criminal jurisdiction, and the Courts of Police Magistrates in such towns: It is hereby enacted as follows:—

PART I.

CHAPTER I.

PRELIMINARY, REPEAL, LOCAL EXTENT, AND DEFINITIONS.

Short title. I. This Act may be called 'The Code of Criminal Procedure.'

Local extent. It extends to the whole of British India, but shall not, except as hereinafter provided, affect the procedure of the High Courts or Police Magistrates in Presidency Towns;

Commencement. And it shall come into force on the first day of September, 1872.

Repeal of enactments. II. The enactments mentioned in the first schedule hereto annexed, are repealed to the extent specified in the third column of the said schedule.

Saving of special procedure. Wherever a special form of procedure is prescribed by any law not expressly repealed in the first schedule to this Act, it shall not be deemed to have been impliedly repealed by reason of its being inconsistent with the provisions of this Code.

References to Code of Criminal Procedure. In every Act passed before this Act, in which reference is made to the Code of Criminal Procedure, such reference shall be taken to be made to this Act.

References in former Acts. In every Act passed before this Act, the expressions 'officer exercising the powers of a Magistrate,' 'Subordinate Magistrate, first class,' and 'Subordinate Magistrate, second class,' shall, respectively, be deemed to mean 'Magistrate of the first class,' 'Magistrate of the second class,' and 'Magistrate of the third class,' as defined in this Act.

Certain specified references. The references made in the enactments specified in column 1 of the fifth schedule hereto, to the sections of the former Code of Criminal Procedure specified in column 2 of the said schedule, shall be deemed to be made to the sections of this Code directed in the third column of the said schedule to be substituted for the said sections in column 2.

Notifications published and orders made under any section of any Act hereby repealed, shall be deemed to have been published and made under the corresponding section of this Act.

Pending cases.

III. Cases pending in any Criminal Court when this Act comes into force, shall be decided as far as may be according to the procedure provided in this Act.

IV. In this Act the following words and expressions have the following meanings, unless a different intention appears from the context:—

Definitions.

'Special law.'

'Special law' means a law applicable to a particular subject.

'Local law.'

'Local law' means a law applicable to a particular part of British India.

'Investigation.'

'Investigation' includes all the proceedings by the Police authorized by this Act, for the collection of evidence.

'Inquiry.'

'Inquiry' includes any inquiry which may be conducted by a Magistrate or Court under this Act.

'Inquired into.'

'Inquired into' means and includes every proceeding preliminary to trial.

'Trial.'

'Trial' means the proceedings taken in Court after a charge has been drawn up, and includes the punishment of the offender.

It includes the proceedings under Chapters XVI. and XVIII. from the time when the accused appears in Court.

'Judicial proceeding.'

'Judicial proceeding' means any proceeding in the course of which evidence is or may be taken, or in which any judgment, sentence, or final order is passed on recorded evidence.

'Written.'

'Written' includes 'printed,' 'lithographed,' 'photographed,' and 'engraved.'

'Criminal Court.'

'Criminal Court' means and includes every Judge or Magistrate, or body of Judges or Magistrates, inquiring into or trying any criminal case or engaged in any judicial proceeding.

'Province.'

'Province' means the territories under the Government or Administration of any local Government.

'Presidency Town.'

'Presidency Town' means the local limits of the ordinary original civil jurisdiction of the High Courts of Calcutta, Madras, or Bombay.

'High Court.'

'High Court' means, in reference to proceedings against European British subjects, or persons jointly charged with European British subjects, the High Courts of Calcutta, Madras, Bombay, the High Court for the North-Western Provinces, and the Chief Court of the Punjab.

In other cases 'High Court' means the highest Court of criminal appeal or revision in any province.

'Session case.'

'Session case' means and includes all cases specified in column 7 of the fourth schedule to this Act as cases triable by a Court of Session, and all cases which Magistrates commit to a Court of Session, although they might have tried them themselves.

In the case of offences created by special and local laws, 'Session case' means cases which are triable by the Court of Session, or which the Magistrate commits to the Court of Session, although he might have tried them himself.

'Magistrate's case.'

'Magistrate's case' means and includes all cases specified in column 7 of the fourth schedule to this Act as cases triable by a Magistrate, and all cases which Magistrates try themselves, although they might have committed them for trial to a Court of Session.

'Cognizable offence or case.'

'Cognizable offence or case' means an offence for or a case in which a Police Officer may, by any law in force for the time being, arrest without warrant.

'Non-cognizable offence or case.'

'Non-cognizable offence or case' means an offence for or a case in which a Police Officer may not arrest without warrant.

'Summons case.'

'Summons case' means an offence of the class described in Section 148.

'Warrant case.'

'Warrant case' means an offence of the class described in Section 149.

'Bailable offence or case.'

'Bailable offence or case' means an offence for or a case in which bail may be taken under the fourth schedule to this Act, or by any other law in force for the time being.

'Non-bailable offence or case.'

'Non-bailable offence or case' means an offence for or a case in which bail may not be taken under the fourth schedule to this Act, or by any law in force for the time being.

PART II.

CONSTITUTION AND POWERS OF THE CRIMINAL COURTS.

CHAPTER II.

OF CRIMINAL COURTS.

Grades of Criminal Courts.

V. Besides the High Courts, there shall be four grades of Criminal Courts in British India:—

I.—The Court of the Magistrate of the 3rd class.
II.—The Court of the Magistrate of the 2nd class.
III.—The Court of the Magistrate of the 1st class.
IV.—The Court of Session.

What Officers to hold inquiries.

VI. All inquiries by Magistrates shall be held according to the provisions hereinafter contained.

What Courts to try offences.

VII. All criminal trials in British India shall be held before the Courts specified in the fourth schedule to this Act, or before the Courts specified in any law by which the offence is created, according to the provisions hereinafter contained.

Offences under local and special laws.

VIII. Offences punishable under any law other than the Indian Penal Code, containing no distinct provision as to the Court or Officer before which or before whom they are to be tried, may be inquired into and tried,

according to the provisions hereinafter contained, by the Criminal Courts appointed under this Act. But no such Court shall award any sentence in excess of its powers.

A Magistrate of the third class shall not try any such offence unless it is punishable with less than one year's imprisonment, nor shall a Magistrate of the second class try any such offence unless it is punishable with less than three years' imprisonment.

Appointment and removal of Judges and Magistrates.

IX. All Judges of Criminal Courts, other than the High Courts, and Magistrates, shall be appointed and may be removed by the local Government; but such officers as are now appointed or removed by the Government of India shall continue to be so appointed or removed.

Saving of existing incumbents.

X. All existing Judges and Magistrates shall be deemed to have been appointed under this Act.

Inquiry and trial in case of European British subjects.

XI. Offences committed by European British subjects shall be inquired into and tried according to the provisions of Chapter VII., and not otherwise; but the other provisions of this Act shall apply to all persons without distinction of race, unless a contrary intention is expressed.

CHAPTER III.

Of Courts of Session.

Sessions Divisions.

XII. Every province shall be divided into Sessions Divisions.

Power to alter Divisions.

XIII. The local Government shall have power to alter, from time to time, the number or extent of such divisions.

Existing local jurisdictions of Sessions Courts to be Sessions Divisions.

XIV. The existing local jurisdictions of Courts of Session shall be Sessions Divisions, unless and until they are so altered.

One Court for each division.

XV. There shall be a Court of Session in every Sessions Division.

It shall have power to try any offence and to pass upon any offender any sentence authorized by law, subject to the provisions of this Act.

Appointment and powers of Sessions Judges.

XVI. There shall be a Sessions Judge for every Sessions Division. The Sessions Judge shall exercise all the powers of the Court of Session in his Sessions Division.

Appointment and powers of Additional and Joint Sessions Judges.

XVII. The local Government may appoint Additional Sessions Judges or Joint Sessions Judges, who shall exercise all the powers of a Court of Session in one or more Sessions Divisions in which they may be directed to act, but shall try such cases only as the local Government directs them to try, or as the Sessions Judge of the division makes over to them for trial.

Appointment and powers of Assistant Sessions Judges.

XVIII. The local Government may also appoint Assistant Sessions Judges, who shall exercise all the powers of a Court of Session in the Sessions Division to which they may be attached, except the power of hearing appeals, and of passing sentences of death or transportation, or imprisonment for more than seven years; but they shall try those cases only which the Sessions Judge of the Sessions Division makes over to them either by general orders or by a special order.

Any sentence of more than three years' imprisonment passed by an Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge. The Sessions Judge may either confirm, modify, or annul such sentence of the Assistant Sessions Judge.

CHAPTER IV.

Of Magistrates and their Powers.

Magistrates to be of three classes.

XIX. Magistrates shall be either—

Magistrates of the 1st class, Magistrates of the 2nd class, or Magistrates of the 3rd class.

Sentences which Magistrates may pass.

XX. The powers of Magistrates in respect to the trial of offences and to passing sentences on persons convicted of them are as follows:—

Powers of Magistrates, first class.

Magistrates of the first class may pass the following sentences:—

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law);
Fine to the extent of 1,000 rupees;
Whipping.

Powers of Magistrates, second class.

Magistrates of the second class may pass the following sentences:—

Imprisonment not exceeding six months (including such solitary confinement as is authorized by law);
Fine not exceeding 200 rupees;
Whipping.

Powers of Magistrates, third class.

Magistrates of the third class may pass the following sentences:—

Imprisonment not exceeding one month;
Fine not exceeding 50 rupees.

A Magistrate of the third class may not pass a sentence of solitary confinement, or of whipping.

Any Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

Explanation.—A Magistrate may award imprisonment in default of payment of fine in addition to the full term of imprisonment which, under this section, he is competent to award.

Powers conferred upon Magistrates.

XXI. In addition to the powers given in Section 20, the following powers are conferred, as hereinafter provided, upon Magistrates by this Act:—

(1.)—Power to make over cases to a subordinate Magistrate (s. 44).

(2.)—Power to pass a sentence on proceedings recorded by a subordinate Magistrate (s. 46).

(3.)—Power to withdraw cases and to try or refer them for trial (s. 47).

(4.)—Power to withdraw or refer appeals from convictions by Magistrates of the 2nd and 3rd classes (s. 47).

(5.)—Power to arrest an accused person found in Court (s. 104).

(6.)—Power to order the Police to investigate an offence (s. 110).

(7.)—Power to record confessions or statements during a Police investigation (s. 122).

(8.)—Power to authorize detention of a person during a Police investigation (s. 124).

(9.)—Power to hold an inquest (s. 135).

(10.)—Power to entertain complaints & receive Police reports (s. 141).

(11.)—Power to entertain cases without complaint (s. 142).

(12.)—Power to commit for trial (s. 143).

(13.)—Power to issue process for person within jurisdiction, who has committed an offence outside Magistrate's local jurisdiction (s. 157).

(14.)—Power to direct warrant to landholder (s. 162).

(15.)—Power to arrest offender in presence of Magistrate (s. 166).

(16.)—Power to endorse warrant, or to order the removal of an accused person arrested under a warrant (ss. 168 and 170).

(17.)—Power to issue proclamation in cases judicially before him (ss. 171 and 353).

(18.)—Power to attach and sell property in cases judicially before him (ss. 172 and 354).

(19.)—Power to try summarily (s. 222).

(20.)—Power to hear appeals from convictions by Magistrates of the 2nd and 3rd classes (s. 266).

(21.)—Power to call for proceedings (ss. 295 and 296).

(22.)—Power to quash convictions in certain cases (s. 328).

(23.)—Power to issue a search-warrant for letter in Post Office (s. 369).

(24.)—Power to endorse a search-warrant and order delivery of thing found (ss. 372, 373, and 376).

(25.)—Power to issue search-warrant otherwise than in the course of an inquiry (s. 377).

(26.)—Power to revise bail orders (s. 398).

(27.)—Power to sell perishable property of a suspicious character (s.415).

(28.)—Power to sell suspicious or stolen property (s. 417).

(29.)—Power to demand security to keep the peace (s. 491).

(30.)—Power to discharge recognizances to keep the peace (s. 500).

(31.)—Power to demand security for good behaviour (ss. 504 and 505).

(32.)—Power to discharge person found to be of good behaviour (s. 511).

(33.)—Power to issue order to prevent obstruction, &c. (s. 518).

(34.)—Power to issue order prohibiting repetition of nuisance (s. 519).

(35.)—Power to make orders, &c., in local nuisance cases (s. 521).

(36.)—Power to make orders, &c., in possession cases (s. 530).

(37.)—Power to make orders of maintenance (s. 536).

Powers common to all Magistrates.

XXII. Magistrates of all classes shall, as such, have the following powers :—

(1.)—Power to arrest an accused person found in Court (s. 104).

(2.)—Power to record confessions or statements during a Police investigation (s. 122).

(3.)—Power to authorize detention of a person during a Police investigation (s. 124).

(4.)—Power to arrest offender in the presence of Magistrate (s. 166).

(5.)—Power to endorse warrant, or to order the removal of an accused person arrested under a warrant (ss. 168 and 170).

(6.)—Power to issue proclamation in cases judicially before him (ss. 171 and 353).

(7.)—Power to attach and sell property in cases judicially before him (ss. 172 and 354.)

(8.)—Power to endorse a search-warrant and order delivery of thing found (ss. 372, 373, and 376).

(9.)—Power to sell perishable property of a suspicious character (s. 415).

Powers which local Government and Magistrate of the district may confer on Magistrates of the 3rd class.

XXIII. In addition to the powers mentioned in Section 22, a Magistrate of the 3rd class may be invested with the following powers :—

(*a.*)—By the local Government—

(1.)—Power to hold inquests (s. 135).

(2.)—Power to entertain complaints of offences in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.)—Power to commit for trial (s. 143).

(4.)—Power to issue order to prevent obstruction, &c. (s. 518).

(5.)—Power to issue order prohibiting repetition of nuisance (s. 519).

(*b.*)—By the Magistrate of the district—

(1.)—Power to hold inquests (s. 135).

(2.)—Power to entertain complaints of offences in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.)—Power to issue order to prevent obstruction, &c. (s. 518).

(4.)—Power to issue order prohibiting repetition of nuisance (s. 519).

Powers of Magistrates of the 2nd class.

XXIV. Magistrates of the 2nd class shall, as such, in addition to the powers mentioned in Section 22, have the following power :—

(1.)—Power to order the Police to investigate an offence in which the Magistrate has jurisdiction to try or to commit for trial (s. 110).

Powers which may be conferred on Magistrates of the 2nd class.

XXV. In addition to the powers given and referred to in Section 24, a Magistrate of the 2nd class may be invested with the following powers :—

(*a.*)—By the local Government—

(1.)—Power to hold inquests (s. 135).

(2.)—Power to entertain complaints and receive Police reports in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.)—Power to entertain without complaint cases which he has jurisdiction to try or to commit for trial (s. 142).

(4.)—Power to commit for trial (s. 143).
(5.)—Power to issue order to prevent obstruction, &c. (s. 518).
(6.)—Power to issue order prohibiting repetition of nuisance (s. 519).
(*b.*)—By the Magistrate of the district—
(1.)—Power to hold inquests (s. 135).
(2.)—Power to entertain complaints and receive Police reports in cases in which he has jurisdiction to try or to commit for trial (s. 141).
(3.)—Power to issue order to prevent obstruction, &c. (s. 518).
(4.)—Power to issue order prohibiting repetition of nuisance (s. 519).

Powers of Magistrates of the 1st class.

XXVI. Magistrates of the first class shall, as such, in addition to the powers mentioned in Sections 22 and 24, have the following powers :—
(1.)—Power to commit for trial (s. 143).
(2.)—Power to issue search-warrant otherwise than in the course of an inquiry (s. 377).
(3.)—Power to demand security to keep the peace (s. 491).
(4.)—Power to demand security for good behaviour (ss. 404 and 505).
(5.)—Power to make orders, &c., in possession cases (s. 530).
(6.)—Power to make orders of maintenance (s. 536).

Powers which may be conferred on Magistrates of the 1st class.

XXVII. In addition to the powers given and referred to in Section 26, a Magistrate of the first class may be invested with the following powers :—
(*a.*)—By the local Government—
(1.)—Power to make over cases taken up on complaint, &c., to a subordinate Magistrate (s. 44).
(2.)—Power to hold inquests (s. 135).
(3.)—Power to entertain complaints of offences and receive Police reports (s. 141).
(4.)—Power to entertain cases without complaint (s. 142).
(5.)—Power to issue process for person within jurisdiction, who has committed an offence outside Magistrate's local jurisdiction (s. 157).
(6.)—Power to try summarily (s. 222).
(7.)—Power to hear appeals from convictions by Magistrates of the second and third classes (s. 266).
(8.)—Power to sell suspicious or stolen property (s. 417).
(9.)—Power to issue order to prevent obstruction, &c. (s. 518).
(10.)—Power to issue order prohibiting repetition of nuisance (s. 519).
(11.)—Power to make orders, &c., in local nuisance cases (s. 521).
(*b.*)—By the Magistrate of the district—
(1.)—Power to hold inquests (s. 135).
(2.)—Power to entertain complaints of offences and receive Police reports (s. 141).
(3.)—Power to issue order to prevent obstruction, &c. (s. 518).
(4.)—Power to issue order prohibiting repetition of nuisance (s. 519).

Powers of Magistrates of divisions of districts.

XXVIII. Magistrates who, under the provisions of Section 40, are Magistrates of divisions of districts, shall, as such, have all the powers given to Magistrates of the first class, and referred to in Section 26, and, in addition, shall have the following powers :—
(1)—Power to make over cases to a subordinate Magistrate (s. 44).
(2.)—Power to pass sentence on proceedings recorded by a subordinate Magistrate (s. 46).

(3.)—Power to withdraw cases, but not appeals, and to try or refer them for trial (s. 47).

(4.)—Power to hold inquests (s. 135).

(5.)—Power to entertain complaints of offences and receive Police reports (s. 141).

(6.)—Power to entertain cases without complaint (s. 142).

(7.)—Power to issue process for person within jurisdiction who has committed an offence outside Magistrate's local jurisdiction (s. 157).

(8.)—Power to sell suspicious or stolen property (s. 417).

(9.)—Power to issue order to prevent obstruction, &c. (s. 518).

(10.)—Power to issue order prohibiting repetition of nuisance (s. 519).

(11.)—Power to make orders in local nuisance cases (s. 521).

Provided that, if a Magistrate of a division of a district exercise the powers of a Magistrate of the second class, he shall not have power to demand security to be of good behaviour.

Powers which local Government may confer on Magistrates of divisions of districts.

XXIX. In addition to the powers given and referred to in Section 28, the local Government may confer on a Magistrate of a division of a district, exercising the powers of a Magistrate of the first class, the following powers:—

(1.)—Power to try summarily (s. 222).

(2.)—Power to hear appeals from convictions by Magistrates of the second and third classes (s. 266).

Powers of Magistrates of districts.

XXX. Magistrates of districts may, as such, exercise all the powers mentioned in Section 21.

Saving of other powers.

XXXI. All other powers given by this Act or by any other law in force may be exercised by the officers or Courts to whom or to which they are given.

Irregularities which do not vitiate proceedings.

XXXII. If any Magistrate, not being empowered by law in that behalf, does any one of the following things:—

(1.)—If he makes over a case, taken up on complaint, &c., to another Magistrate;

(2.)—If he withdraws a case and tries it himself, or refers a case for trial;

(3.)—If he orders the Police to investigate an offence;

(4.)—If he holds an inquest;

(5.)—If he entertains a complaint or receives a Police report;

(6.)—If he issues process for the apprehension of a person within his local jurisdiction, who has committed an offence outside his local jurisdiction;

(7.)—If he issues a search-warrant otherwise than in the course of any inquiry, his proceedings shall not be set aside on the ground that he was not so empowered.

When irregular commitments may be validated.

XXXIII. If any Magistrate, not being empowered by law, commits an accused person to take his trial before a Court of Session or High Court, the Court to which the commitment was made may, after perusal of the proceedings, accept the commitment if it considers that the accused person has not been prejudiced, unless the accused person has objected to the jurisdiction of the committing Magistrate during the inquiry and before the order of commitment.

If such Court considers that the accused person was prejudiced, or if he objected to the jurisdiction of the committing Magistrate during the inquiry, and before the order of commitment, it shall quash the commitment, and direct a fresh inquiry by a competent Magistrate.

Irregularities which render proceedings void.

XXXIV. If any Magistrate, not being empowered by law in that behalf, does any of the following things, his proceedings shall be void; that is to say:—

(1.)—If he passes a sentence on proceedings recorded by another Magistrate;

(2.)—If he entertains a case without complaint;

(3.)—If he attaches and sells property under Section 172;

(4.)—If he tries an offender summarily;

(5.)—If he decides an appeal;

(6.)—If he calls for proceedings;

(7.)—If he issues a search-warrant for a letter in the Post Office;

(8.)—If he revises a bail order;

(9.)—If he sells suspicious or stolen property under Section 417;

(10.)—If he demands security to keep the peace;

(11.)—If he discharges recognizances to keep the peace;

(12.)—If he demands security for good behaviour;

(13.)—If he discharges a person lawfully bound to be of good behaviour.

(14.)—If he makes an order in a local nuisance case;

(15.)—If he issues an order to prevent an obstruction;

(16.)—If he prohibits the repetition of a nuisance;

(17.)—If he makes an order in a possession case; or

(18.)—If he makes an order for maintenance.

THE MAGISTRATE OF THE DISTRICT.

Magistrate of the district.

XXXV. In every district there shall be a Magistrate of the first class, appointed by the local Government, who shall be called the Magistrate of the district, and shall exercise throughout his district all the powers of a Magistrate.

Powers with which Deputy Commissioners and Chief Executive Officers of district may be invested.

XXXVI. In the territories subject to the Lieutenant-Governor of the Punjáb, and in the territories administered by the Chief Commissioners of Oudh, the Central Provinces, and British Burma, in Coorg, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, the local Government may invest the Deputy Commissioner, or other chief officer charged with the executive administration of the district in criminal matters, with power to try as a Magistrate all offences not punishable with death, and to pass sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or of fine, or of whipping, or any combination of these punishments authorized by law; but any sentence of upwards of three years' imprisonment, passed by any such officer, shall be subject to the confirmation of the Sessions Judge to whom such Deputy Commissioner is subordinate. Such Sessions Judge may either confirm, modify, or annul any sentence referred for confirmation.

SUBORDINATE MAGISTRATES.

Subordinate Magistrates.

XXXVII. The local Government may appoint as many other persons besides the Magistrate of the district, as it thinks fit, to be Magistrates of the first, second, or third class in the district.

All such Magistrates shall be subordinate to the Magistrate of the district; but neither the Magistrate of the district nor the subordinate Magistrates shall be subordinate to the Sessions Judge, except to the extent and in the manner provided by this Act.

Proviso.

The local Government shall not have power to direct that any Magistrate may try any offence which Magistrates of his class are not authorized to try, or pass any sentence which Magistrates of his class are not authorized to pass by Section 20.

Power to determine local jurisdiction of a Magistrate of district.

XXXVIII. The local Government may, by notification in the official Gazette, prescribe the local limits of the jurisdiction of a Magistrate of the district, and may, by such notification, from time to time, alter such local limits.

Division of district into divisions.

XXXIX. The local Government may divide any district into divisions, and from time to time alter their limits. All existing divisions of districts which are now usually put under the charge of a Magistrate shall be divisions, until their limits are so altered.

Existing division preserved.

Local Government may put Magistrate in charge of division.

XL. The local Government may place any Magistrate of the first or second class in charge of a division of a district.

Such Magistrate shall be called a Magistrate of a division of a district, and shall exercise the powers conferred on him under this Act, or under any law for the time being in force, subject to the control of the Magistrate of the district.

Delegation of power to Magistrate of district.

The local Government may, if it thinks fit, delegate its powers under this section to the Magistrate of the district.

Subordination of officers to Magistrate of division of district.

XLI. Every Magistrate in a division of a district shall be subordinate to the Magistrate of the division of the district, subject, however, to the general control of the Magistrate of the district.

Special Magistrates.

XLII. The local Government may confer upon any person all or any of the powers of a Magistrate of the first, second, or third class, in respect to particular offences, or to a particular class or particular classes of offences, or in regard to offences generally, in any part of a district or in any one or more districts, subject to such local Government.

Such Magistrates shall be called 'Special Magistrates.'

Mode of conferring powers.

XLIII. In conferring powers under this Act, the local Government may empower persons specially by name, or classes of officials generally by their official titles.

Transfer of cases to subordinate Magistrate.

XLIV. The Magistrate of the district or any Magistrate of a division of a district may make over any criminal case taken up by him on suspicion, or brought before him on complaint, or on report by the Police, for inquiry or trial to any Magistrate subordinate to him, to be dealt with to the extent of the powers with which the subordinate Magistrate may have been invested under the provisions hereinbefore contained.

The Magistrate making the reference may, if the case was brought forward on complaint before such reference, examine the complainant as prescribed in this Act; but if he does not do so, the Magistrate to whom the case is referred shall proceed as if the complaint had been made to him.

The order of reference shall be recorded in a proceeding, and, if the case has been brought forward on the report of a Police Officer, shall be recorded on such report; and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before the Magistrate to whom the case has been referred.

The Magistrate making the reference may, if he thinks proper, re-transfer to his own file the case referred under paragraph 1 of this section, and when he has done so, and not before, may proceed therein.

Procedure of Magistrate in cases beyond his jurisdiction.

XLV. If, in the course of a proceeding before a Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial,

he shall stay proceedings and submit the case to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the Magistrate of the district directs.

The Magistrate to whom the case is submitted shall either try the case himself; or refer it to any officer, subordinate to him, having jurisdiction; or he may commit the accused person for trial.

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

But any statement or confession duly made by an accused person in the course of the proceedings before the Magistrate, before whom the case was originally brought, shall be admissible as evidence in all subsequent proceedings.

Procedure when Magistrate cannot pass sentence sufficiently severe.

XLVI. Whenever a Magistrate of the second or third class, having jurisdiction, finds the accused person guilty, and considers that he ought to receive a more severe punishment than such Magistrate is competent to adjudge, he may record the finding, and, if sentence has not been passed, may submit his proceedings, and forward the accused person to the Magistrate of the district, or to the Magistrate of the division of the district, to whom he is subordinate.

The Magistrate, to whom the proceedings are submitted, may, if he thinks fit, examine the parties and re-call and examine any witness who has already given evidence in the case; and may summon any further witnesses and take their evidence; and shall pass such judgment,

sentence, or order in the case as he deems proper, and as is according to law: Provided that he shall not exceed the powers ordinarily exercisable by him under Section 20 of this Act.

Magistrate may in the first instance commit accused for trial before Court of Session.

The Magistrate who originally dealt with the case may, if he is empowered to hold inquiries into cases triable by the Court of Session and to commit persons to take their trial before such Court, instead of submitting his proceedings to another Magistrate, commit the accused person for trial before the Court of Session instead of finding him guilty.

Magistrate may withdraw or refer cases.

XLVII. Magistrates of districts and Magistrates of divisions of districts may respectively withdraw any criminal case from any Magistrate subordinate to them, and may inquire into or try the case themselves, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Magistrates of districts may withdraw any criminal appeal from any subordinate Magistrate who has been authorized to hear appeals from the convictions of Magistrates of the second and third classes, and may refer criminal appeals to any competent Magistrate subordinate to them.

Local Government may empower Magistrates of districts to withdraw classes of cases.

XLVIII. The local Government may authorize the Magistrate of the district to withdraw from the Magistrates subordinate to him, whether in charge of divisions of districts or not, either such classes of cases as he thinks proper, or particular classes of cases.

Local Government may authorize Magistrate of district to distribute business by localities.

XLIX. The Magistrate of the district under the general or special orders of the local Government, may authorize any Magistrate subordinate to him to entertain complaints arising within certain local limits, and may from time to time vary such orders: Provided that no such Magistrate shall be authorized to entertain any complaint of any offence which he is not competent to try or to commit for trial.

MAGISTRATES' BENCHES.

Power to invest Magistrates sitting as a bench with certain powers.

L. The local Government may direct any two or more Magistrates to sit together as a bench, and may invest such bench with the powers of a Magistrate of the first or second or third class, and direct it to try such cases or such classes of cases only and within such limits as it thinks fit.

Powers exercisable by such bench in absence of special directions.

LI. In the absence of any special direction as to the powers of any such bench, it shall have the powers of a Magistrate of the highest class to which any one of its members belongs, and who is present taking part in the proceedings.

Magistrate of the district may frame rules for guidance of benches.

LII. The Magistrate of the district may, subject to the general orders of the local Government, make rules for the guidance of Magistrates' benches in his district.

Such rules shall not be inconsistent with the provisions of this Act, and may deal with the following subjects:—

The classes of cases to be tried.

The times and places of sitting.

The constitution of the bench for conducting trials.

The mode of settling differences of opinion which may arise between the Magistrates in Session.

Magistrate of district may vary or annul rules made under Section 52.

LIII. The Magistrate of the district may, subject to the like orders, vary or annul, from time to time, any rules made by himself or by his predecessor under the last preceding section.

CONTINUANCE AND ALTERATION OF POWERS.

Powers may be varied or cancelled.

LIV. The local Government may vary or cancel any powers with which any person may have been invested under this Act or any enactment hereby repealed.

Powers of officer temporarily succeeding to vacancies in office of Magistrate of district.

LV. When, in consequence of the office of a Magistrate of the district becoming vacant, any officer succeeds temporarily to the chief executive administration of the district in criminal matters, such officer shall, pending the orders of the local Government, exercise all the ordinary powers and perform all the duties of the Magistrate of the district.

Continuance of powers of officers transferred.

LVI. Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act or any enactment hereby repealed, in any district, is transferred to an equal or higher office of the same nature within another district, he shall, unless the local Government otherwise directs, continue to exercise the same powers in the district to which he is so transferred.

CHAPTER V.

OF PUBLIC PROSECUTORS.

Appointment of public prosecutor.

LVII. The local Government may, if it thinks proper, appoint officers to be called public prosecutors.

Appointment may be for particular case or generally.

LVIII. Public prosecutors may be appointed either for a particular case, or for particular classes of cases, or for all cases throughout the whole or any part of any province.

Private persons may not act as prosecutors or employ counsel without permission of the Court.

LIX. Any Court inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person shall be entitled to do so without such permission. Any person permitted to prosecute may conduct the prosecution personally or by counsel.

He may plead in all Courts in cases under his charge.

Barristers, &c., privately instructed to be under his direction.

LX. The public prosecutor may appear and plead, without any written authority, before all Courts in which any case under his charge is under inquiry, trial, or appeal; and if any private person instructs any barrister, attorney, pleader, or vakil to prosecute any person in any case under the charge of the public prosecutor, the public prosecutor shall have the management of the case, and such other person shall act under his directions.

Effect of withdrawal of charge by public prosecutor.

LXI. The public prosecutor may, with the consent of the Court, withdraw any charge against any person in any case of which he is in charge; and upon such withdrawal, if it is made whilst the case is under inquiry, the accused person shall be discharged. If it is made when he is under trial, the accused person shall be acquitted.

Notice to public prosecutor of appeal in cases prosecuted by him.

LXII. If an appeal is brought in any case in which any person, prosecuted by the public prosecutor, has been convicted, notice of such appeal and copy of the grounds of appeal shall be given to such public prosecutor by the Appellate Court, and the Court shall also give him due notice of the time and place at which such appeal is to be heard.

CHAPTER VI.

THE PLACE OF INQUIRY AND TRIAL.

Place for inquiry and trial of offence.

LXIII. Every offence shall be inquired into, and, if tried by a Magistrate, shall be tried in the district in which it was committed. If tried by a Court of Session, it shall be tried by that Court of Session to which the Magistrate commits.

Magistrates shall ordinarily commit to the Court of Session for the Sessions Division in which the district to which they are appointed is situated; but the local Government may direct that any cases or class of cases committed in any district may be tried in any Sessions Division.

Explanation.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Code.

High Court may transfer case or direct trial in district other than that in which offence was committed.

LXIV. Whenever it appears to the High Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses, it may direct the transfer of any particular criminal case, or appeal or class of cases or appeals, from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction,

or may order that any offence shall be inquired into or tried in any district or division of a district, other than that in which the offence has been committed, or that it shall be tried before itself. If the High Court withdraws any case from any other Court for trial before itself, it shall observe the same procedure which that Court would have observed if the case had not been so withdrawn.

Provided that the orders issued under this section shall not be repugnant to orders issued by the local Government under the last preceding section.

Accused triable in district where Act is done, or where consequence ensues.

LXV. When a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or omitted to be done, or any such consequence has ensued.

Illustrations.

(*a.*) A is wounded in the district of X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in the district of X and is, during twenty days, unable to follow his ordinary pursuits in the district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in the district of Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in district X or district Y.

Place for trial where act is offence by reason of relation to other offence.

LXVI. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first mentioned offence may be inquired into and tried, either in the district in which it happened, or in the district in which the offence, with which it was so connected, happened.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in any district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district in which the wrongful concealing, or in the district in which the kidnapping took place.

(*d.*) A, B, C, and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired in pursuance of the original concerted plan and with reference to the common object.

Place for inquiry or trial where scene of offence is uncertain;

or not in one district only;

or offence is continuing;

or consists of several acts.

LXVII. When it is uncertain in which of several districts an offence was committed; or where an offence is committed partly in one district and partly in another; or

where the offence is a continuing one and continues to be committed in more districts than one; or where it consists of several acts done in different districts,

it may be inquired into and tried in any one of any of such districts.

Illustrations.

(*a.*) An offence committed on a journey or voyage may be inquired into and tried in any district through which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

(*b.*) An offence committed near the boundary between two districts may be inquired into and tried in either.

(*c.*) A charge of being a thug, or of having belonged to a gang of dacoits, may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*d.*) A charge of having escaped from custody may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*e.*) A charge of criminal misappropriation or of criminal breach of trust may be inquired into and tried, either in the district in which the property, which is the subject of the offence, was received, or in the district or districts in which the whole or any part of it has been misappropriated, or where the offence of criminal breach of trust has been wholly or partly committed

(*f.*) A steals a buffalo from B in district W, and personally or by his agents conveys the buffalo through districts X and Y into district Z. This is a continuing offence, and A may be tried either in W, X, Y, or Z.

Murder as a thug, dacoity, or dacoity with murder.

LXVIII. The offence of murder as a thug, dacoity, or dacoity with murder, may be inquired into and tried wherever the person accused may happen to be when arrested, or in any other district in which he might be tried under any other provision of this Code, or any other law relating to the trial of such offence.

High Court to decide, in case of doubt, in what district inquiry shall take place.

LXIX. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court, within whose jurisdiction the offender is apprehended, may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry, or trial in wrong district.

LXX. No sentence or order of any Criminal Court shall be liable to be set aside, merely on the ground that the investigation, inquiry, or trial was held in a wrong district or Sessions division, unless it is proved or appears that the accused person was actually prejudiced in his defence, or the prosecutor in his prosecution, by such error, in either of which cases a new trial may be ordered.

CHAPTER VII.

Of Criminal Jurisdiction over European British Subjects.

'European British subjects.'

LXXI. The expression 'European British subjects' means in this Act—

(1.)—All subjects of Her Majesty born, naturalized, or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American, or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal.

(2.)—The children and grandchildren of any such person by legitimate descent.

Officers who may inquire into and try offences committed by European British subjects.

LXXII. No Magistrate or Justice of the Peace or Sessions Judge shall have jurisdiction to inquire into a complaint, or try a charge against a European British subject, unless he is himself a European British subject.

No Magistrate shall have such jurisdiction unless he is a Magistrate of the first class and a Justice of the Peace.

No Justice of the Peace shall have such jurisdiction unless he is a Magistrate of the first class.

Who may hear complaints and issue process.

LXXIII. Any Magistrate, who is authorized by law to entertain complaints, may entertain against European British subjects such complaints as he is authorized to entertain in the case of other persons.

If he issues any process for the purpose of compelling the appearance of a European British subject accused of an offence, such process must be returnable before a Magistrate competent to inquire into or try the case.

Officer competent to inquire into any, may inquire into all complaints against European British subjects.

LXXIV. Any competent Magistrate may inquire into complaints of any offence made against a European British subject.

When such Magistrate may try, and extent of his jurisdiction.

If the offence complained of is a Magistrate's case, and can, in the opinion of such Magistrate, be adequately punished by him, he shall proceed as is hereinafter in this Code directed, according to the nature of the offence; and, on conviction, may pass on such European British subject any sentence warranted by law, not exceeding three months' imprisonment, or fine up to 1,000 rupees, or both.

When commitment is to be to Court of Session.

LXXV. When the offence complained of cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused person ought to be committed, commit him to the Court of Session.

When commitment is to be to High Court.

When the offence complained of is punishable with death or transportation for life, the commitment shall be to the High Court.

Jurisdiction of Court of Session.

LXXVI. Sessions Judges or Additional Sessions Judges, and, when specially empowered in that behalf by the local Government, Assistant Sessions Judges, who are European British subjects and who have been Assistant Sessions Judges for not less than three years, may pass on European British subjects any sentence, warranted by law, not exceeding one year's imprisonment, or fine, or both.

When Sessions Judge finds his powers inadequate.

If at any stage of the proceedings, the Sessions Judge thinks the offence cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. The Sessions Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before such High Court.

Procedure when Sessions Judge is not a European British subject.

LXXVII. If the Sessions Judge of the Sessions division, within which the offence is ordinarily triable, is not a European British subject, the case shall be reported, by the committing Magistrate, for the orders of the High Court.

Mode of conducting trials by Court of Session.

LXXVIII. Trials of European British subjects before the Court of Session shall be conducted according to the provisions of Chapter XXI.

In trials with assessors not less than half the number of assessors, and in trials by jury not less than half the number of jurors, shall be European British subjects.

Appeal from conviction of such subject by Magistrate.

LXXIX. Any European British subject who is convicted by a competent Magistrate of any offence, may appeal either to the Court of Session or to the High Court.

Appeal from conviction by Court of Session.

LXXX. Any European British subject who is convicted of any offence by any Court of Session, may appeal to the High Court.

Right of European British subject under detention to apply for order to produce his person.

LXXXI. Any European British subject, who is detained in custody by any person and who considers such detention unlawful, may apply to the High Court, which would have jurisdiction over him in respect of any offence committed by him at the place where he is detained, or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the said High Court to abide such further order as may be made by it. The High Court, if it thinks fit, may, before issuing such order, inquire on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and when the person applying for it is brought before it, it may make such further order in the case as it thinks fit after such inquiry as it thinks necessary.

Procedure on such application.

The High Courts may issue such orders throughout the territories over which they have jurisdiction, and over such other places as the Governor-General in Council may direct.

Power of High Courts as to issue of writs.

LXXXII. Neither the High Courts nor any Judge of such High Courts shall issue any writ of *habeas corpus*, mainprise, *de homine replegiando*, nor any other writ of the like nature beyond the Presidency towns.

Procedure on claim of European British subject to be dealt with as such.

LXXXIII. When any person claims to be dealt with as a European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall on such statement decide whether he is or is not a European British subject, and shall deal with him accordingly; and if any such person is dissatisfied with such decision, the burden of proving that it was wrong shall be upon him. If the Magistrate decide that the accused person is not a European British subject, the trial shall proceed, but such decision shall form a ground of appeal.

Failure to plead status, a waiver.

LXXXIV. If a European British subject does not claim to be dealt with as such before the Magistrate before whom he is tried or committed, he shall be held to have waived his privilege as such European British subject.

If the Magistrate has reason to believe that any person brought before him is a European British subject, it is his duty to ask him whether he is one or not.

Trial of person not a European British subject under this chapter.

LXXXV. If a person, who is not a European British subject, is dealt with as such and does not object, the proceedings shall be valid.

Procedure of High Courts.

LXXXVI. All High Courts shall deal with proceedings against European British subjects outside of the Presidency towns in the manner in which they are empowered by this Act, or by any other law in force for the time being, to deal with the proceedings of Magistrates outside the Presidency towns, and not according to the law of England relating to the dealings of the superior Courts in England with the proceedings of Justices of the Peace in England.

The High Courts shall have the same powers with respect to the inquiries and charges against European British subjects as Courts of Session have with respect to inquiries and charges against other persons.

Proceedings against European British subjects to be regulated by this Act.

LXXXVII. All Magistrates and Courts of Session proceeding against European British subjects under this chapter, shall proceed under the provisions of this Act and not according to the law of England relating to Justices of the Peace; and all the provisions of this Act, not inconsistent with the provisions of this chapter, shall apply to such proceedings.

Place of confinement.

LXXXVIII. European British subjects sentenced to imprisonment shall be confined in such places as the local Government may either specially or generally appoint.

PART III.

Of the Police.

CHAPTER VIII.

Offences of which Information must be given to the Police, and Duty of the Public.

All persons to give information of certain offences.

LXXXIX. Every person aware of the commission of any offence made punishable under Sections 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460 of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police Officer or Magistrate.

Landholders and others bound to report certain matters.

XC. Every Village Headman, Village Watchman, owner or occupier of land, or the agent of any such owner or occupier, and every native officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, is bound forthwith to communicate to the nearest Magistrate, or to the officer in charge of the

nearest Police station, any information which he may obtain respecting:—

(*a*) the residence of any notorious receiver or vendor of stolen property at the village of which he is Headman or Watchman, or in which he owns or occupies land, or collects rent or revenue, as the case may be;

(*b*) the resort to any place within the limits of such village of any person or persons known or reasonably suspected of being a thug or robber;

(*c*) the commission or intention to commit suttee or other non-bailable offence at or near such village;

(*d*) the occurrence of any sudden or unnatural death.

All persons to assist Magistrate and Police in certain cases.

XCI. Every person is bound to assist a Magistrate or Police Officer demanding his aid in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police Officer is authorized to arrest.

CHAPTER IX.

Of Arrest without Warrant.

When Police may arrest without warrant.

XCII. A Police Officer may, without orders from a Magistrate and without a warrant, arrest:—

Firstly.—Any person who in the sight of such Police Officer commits a cognizable offence;

Secondly.—Any person against whom a reasonable complaint has been made, or a reasonable suspicion exists, of his having been concerned in any such offence;

Thirdly.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence;

Fourthly.—Any person who has been proclaimed either under this Act, or in a District or Police Gazette or notification;

Fifthly.—Any person found with property in his possession which may reasonably be suspected to be stolen property;

Sixthly.—Any person who obstructs a Police Officer while in the execution of his duty, or who escapes from lawful custody; and

Seventhly.—Any person reasonably suspected of being a deserter from Her Majesty's Army or Her Majesty's Indian Army.

Person charged refusing to give his name and residence.

XCIII. Any person known to have committed, or suspected of having committed, an offence for which a Police Officer is not authorized to arrest without a warrant, and who refuses, on demand of a Police Officer, to give his name and residence,

or gives a name or residence which there is reason to believe to be false,

may be detained by such Police Officer for the purpose of ascertaining the name or residence of such person; and shall, within twenty-four hours, be forwarded to the Magistrate having jurisdiction, unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released.

Arrest of vagabonds.

XCIV. An officer in charge of a Police station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person, found lurking within the limits of such station, who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself;

or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen;

or who is of notoriously bad livelihood.

Police to prevent certain offences.

XCV. Every Police Officer shall prevent, and may interpose for the purpose of preventing, the commission of any cognizable offence.

Information of design to commit such offences.

XCVI. Every Police Officer receiving information of a design to commit any such offence, shall communicate such information to the Police Officer to whom he is subordinate, and to any other officer whom it may concern, to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences.

XCVII. A Police Officer, knowing of a design to commit any such offence, may arrest, without orders from Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Injury to public property.

XCVIII. A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public property, movable or immovable,

or to prevent the removal or injury of any public landmark, or buoy, or other mark used for navigation. If necessary, such Police Officer may detain the person doing such injury according to the provisions of Section 93.

Ingress to be allowed into house entered by person of whom Police are in search.

XCIX. If there is reason to believe that any person, liable to arrest under this chapter without a warrant, of whom a Police Officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police Officer, to allow ingress thereto, and all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

C. If ingress to such house or place cannot be obtained under Section 99, the Police Officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested, and send immediate information to any Magistrate having jurisdiction.

If a warrant cannot be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without warrant on the spot, the Police Officer may make an entry into such house or place and search therein.

Person arrested to be taken before Magistrate or officer in charge of Police station.

CI. A Police Officer making an arrest under this chapter shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case, or before the officer in charge of a Police station.

Procedure when Police Officer deputes subordinate to arrest without warrant.

CII. When any officer in charge of a Police station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested by such officer without a warrant, he shall deliver to the Police Officer required to make the arrest an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

The provisions of Sections 91 and 176 to 182 (both inclusive) shall apply to every order in writing issued under this section.

Police may pursue offenders into other jurisdictions.

CIII. For the purpose of arresting any person accused of a cognizable offence, a Police Officer may pursue any such person into the limits of the local jurisdiction of another Police Officer, whether subordinate to the same Magistrate as himself, or to the Magistrate of any other district, and whether such place be in the same province or not.

Detention of offenders attending Court.

CIV. Any person attending a Criminal Court, although not upon an arrest or summons on a complaint made, may be detained by such Court for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a complaint made.

When the detention takes place in the course of an inquiry under Chapter XV., or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses re-heard.

Of Arrest by Private Persons.

Arrest by private persons.

CV. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence.

Arrest of deserters from British ships.

CVI. The master or mate of a British merchant ship may, either with or without the assistance of the Police, who are bound to aid if so required by such master or mate, arrest seamen or apprentices duly engaged, under the Statute 17 & 18 Vic., Cap. 104, or other law for the time being in force relating to merchant shipping, who refuse to join or who desert from the vessel in which they contracted to serve.

Such arrest shall be made only at the request and on the responsibility of such master or mate, and he shall be required by the Police to accompany the arrested person, should he be apprehended, before the Magistrate having jurisdiction; and it shall be the duty of such master or mate to obey such requisition.

How to proceed with person arrested.

CVII. A private person making an arrest under this chapter shall forthwith make over the person arrested to a Police Officer; and, in the absence of a Police Officer, shall take such person to the nearest Police station. The Police shall deal with such person according to the provisions of Section 92 or 93, as the case may be, and shall not arrest or detain him unless he appears to be liable to arrest or detention under the section applicable.

Offence committed in Magistrate's presence.

CVIII. When any offence is committed in the presence of a Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

CHAPTER X.

POWERS OF THE POLICE TO INVESTIGATE.

What offences Police Officer may investigate.

CIX. An officer in charge of a Police station may, without order of a Magistrate, investigate any offence cognizable by the Police.

What offences Police may not investigate.

CX. A Police Officer may not, without the order of a Magistrate of the first or second class, investigate an offence not cognizable by the Police.

A Magistrate of the first or second class may, as provided in Sections 24 and 26, order the Police to investigate; and, on receipt of an order to investigate a non-cognizable case, a Police Officer may exercise the same powers in respect of the investigation as in a cognizable case.

Saving of powers vested in Police by special or local law.

CXI. Nothing in Section 110 shall be held to interfere with the exercise of any powers vested in a Police Officer by any special or local law, or with the performance of any duty which is imposed upon a Police Officer by any such special or local law.

Complaint to Police to be in writing.

CXII. Every complaint preferred to an officer in charge of a Police station shall be reduced into writing, and shall be signed, sealed, or marked by the person making it; and the substance thereof shall be entered in a book to be kept by such officer in the form prescribed by the local Government.

Complaint in non-cognizable cases.

CXIII. If a complaint is preferred to an officer in charge of a Police station, of the commission within his local jurisdiction of an offence which is not cognizable by the Police, the Police Officer shall enter the substance of it in the station diary, and shall refer the complaint to the Magistrate.

Upon information, &c., Police Officer in charge of station to proceed in person or depute a subordinate.

CXIV. If, from information or otherwise, an officer in charge of a Police station has reason to suspect the commission, within his local jurisdiction, of an offence cognizable by the Police, he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person or shall depute one of his subordinate officers to proceed to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender.

Police Officers shall investigate offences committed within the local limits of their jurisdiction; but they may investigate offences committed outside of those limits in cases in which a Magistrate might, under the provisions of Chapter VI., inquire into an offence not committed within his district.

No such proceeding shall, at any stage, be called in question on the ground that such offence was not committed within such officers's local jurisdiction.

Preliminary inquiry.

CXV. Such Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into or otherwise to dispose of such case in the manner provided in this Act.

Where local investigation dispensed with.

CXVI. Provided that when any complaint is made against any person by name, and the case is not of a serious nature, the officer in charge of a Police station need not proceed in person or depute a subordinate officer to make an investigation on the spot, unless such local investigation appears to be necessary.

Where Police Officer in charge sees no sufficient ground for investigation.

CXVII. Provided that, if it appear to the officer in charge of a Police station that there is no sufficient ground for entering on an investigation, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistrate having jurisdiction.

Such report shall be submitted through such superior officer of Police as the local Government shall, by general or special order, in that behalf appoint. Such superior officer may give such instructions to the officer in charge of the Police station as he deems fit, and shall, after recording such instructions on such report, transmit the papers without delay to the Magistrate having jurisdiction.

Police Officer's power to summon witnesses.

CXVIII. An officer in charge of a Police station or other officer making an investigation may, by an order in writing, require the attendance before himself of any person, being within the limits of his own or any adjoining station, who, from the statement of the complainant or otherwise, appears to be acquainted with the circumstances of any case which such officer is investigating; and such person shall attend as required, and shall answer all questions relating to such case put to him by such officer:

Provided that no person shall be bound to answer any questions tending to criminate himself.

Oral examination of witnesses by Police.

CXIV. An officer in charge of a Police station, or other Police Officer making an investigation, may examine orally any person supposed to be acquanted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer all questions relating to such case put him by such officer, other than questions criminating himself.

Proviso.

No statement so reduced into writing shall be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

No inducement to be offered to confess.

CXX. No Police Officer or other person shall offer any inducement to an accused person, by threat or promise or otherwise, to make any disclosure or confession, whether such person is under arrest or not.

But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

Police not to record statement or confession.

CXXI. No Police Officer shall record any statement, or any admission or confession of guilt, which may be made before him by a person accused of any offence:

Proviso.

Provided that nothing in this section shall preclude a Police Officer from reducing any such statement or admission or confession into writing for his own information or guidance, or from giving evidence of any dying declaration.

Powers of Magistrates to record statements and confessions.

CXXII. Any Magistrate may record any statement made to him by any person, or any confession made to him by any person, accused of an offence by any Police Officer or other person. Such statements shall be recorded in the manner hereinafter prescribed for recording evidence, and such confessions shall be taken in the manner provided in Sections 345 and 346, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried. No Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily, and he shall make a memorandum at the foot of any such confession to the following effect:—

"I believe that this confession was voluntarily made."

(Signed) A. B.,
Magistrate.

Investigation by Police.

CXXIII. If the person arrested appears, from the information obtained, to have committed the offence charged, and the offence is not bailable, the officer in charge of the Police station shall forward him under custody to the Magistrate having jurisdiction, and shall bind over the complainants, if any, and so many of the persons who appear to be acquainted with the circumstances of the case as may be necessary, to appear on a fixed day before such Magistrate, and to remain in attendance till otherwise directed.

When any subordinate Police Officer has made any investigation under this chapter, he shall, if so required by the officer in charge of the Police station, submit a report of such investigation to him; or he may do so without such requisition; and the officer in charge of the Police station shall then proceed as if he had made the investigation himself.

Accused not to be detained by Police more than twenty-four hours without special authority.

CXXIV. No Police Officer shall detain an accused person in custody for a longer period than, under all the circumstances of the cases, is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to inquire into or try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

If the investigation has not been completed within twenty-four hours and no such special order has been passed, and if there are grounds for believing that the accusation is well founded, the officer in charge of the Police station shall forward the accused person to the Magistrate having jurisdiction, with a statement of the offence for which he has been arrested.

A Magistrate authorizing detention under this section shall record his reasons for so doing.

If such order be given by a Magistrate other than the Magistrate of the district or of a division of district, he shall forward a copy of

his order, with his reasons for making it, to the Magistrate to whom he is subordinate.

Procedure of Police in case of deficient evidence.

CXXV. If it appears to the officer in charge of the Police station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of an accused person to the Magistrate, such officer shall release the accused person on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate having jurisdiction. Such report shall be submitted through the superior officer of Police mentioned in Section 117, who may, pending the orders of the Magistrate, give instructions as to the conduct of the investigation.

Daily record of proceedings.

CXXVI. A Police Officer making an investigation under this chapter shall, day by day, enter his proceedings in the investigation in a diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained by his investigation.

Any Criminal Court may send for the Police diaries of a case under inquiry or trial in such Court, and may use such diaries to aid it in such inquiry or trial. Neither the prisoner nor his agents shall be entitled to call for them, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the Police Officer, who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such Police Officer, the provisions of the law relating to documents used for such purposes shall apply to them.

Report of Police Officer.

CXXVII. The investigation shall be completed without unnecessary delay, and, as soon as it is completed, the Police Officer making the same shall forward to the Magistrate having jurisdiction a report in the form prescribed by the local Government, setting forth the names of the parties, the nature of the complaint, and the names of the persons who appear to be acquainted with the circumstances of the case, and shall also send to such Magistrate any weapon or article which it may be necessary to produce before him.

The Police Officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance.

If the accused person be detained in custody, the Police Officer shall state the fact and the cause of his detention.

Admission to bail.

CXXVIII. A person accused of any non-bailable offence shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him.

But a person accused of any bailable offence shall be admitted to bail, if sufficient bail be tendered for his appearance before the Magistrate having jurisdiction in respect of the offence.

Bail not to be excessive.

CXXIX. The bail to be taken under Section 128 shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the

accused person before the Magistrate on or before a fixed day, and from day to day, until otherwise directed, to answer the complaint.

Terms of security.

CXXX. Every complainant and other person acquainted with the facts and circumstances of the case, whose attendance before the Magistrate having jurisdiction is deemed necessary by the Police Officer making the investigation, shall execute a recognizance in the Form (F) given in the second schedule hereto, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day.

Complainants and witnesses to execute recognizances to appear.

If the Court of the Magistrate of the district or of a Magistrate of a division of a district be inserted in the bond, it shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided notice be given to such complainant or witness.

Such day shall be the day whereon the accused person is to appear, if he has been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed shall, after delivering to the complainant or one of the witnesses a duplicate thereof, send it with his report to the Magistrate having jurisdiction.

No Police Officer shall, except as provided in the next following section, accompany the complainant or witnesses on his or their way to the Court of the Magistrate.

CXXXI. A Police Officer shall not subject any complainant or witness to restraint or unnecessary inconvenience, nor require him to give any security for his appearance other than his own recognizance.

Complainants and witnesses not to be subjected to restraint.

But if any complainant or witness refuses to attend, or to execute the recognizance directed in Section 130, the officer in charge of a Police station may forward him under custody to the Magistrate having jurisdiction, who may detain him in custody until he executes such recognizance, or until the hearing is completed.

Recusant complainant or witness may be forwarded in custody.

CXXXII. Officers in charge of Police stations shall report to the Magistrate of the district, or the Magistrate of the division of a district, the cases of all persons apprehended within the limits of their respective stations, or detained under Section 93, whether such persons have been admitted to bail or otherwise, under whatever law such persons may have been arrested.

Police to report apprehensions.

No person who has been apprehended by a Police Officer shall be discharged, except on bail or on his own recognizance, or under the special order of a Magistrate.

Discharge of person apprehended.

CXXXIII. The officer in charge of a Police station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate duly authorized, and shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an

Police to inquire and report on unnatural and sudden deaths.

investigation, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted.

The report shall be signed by such Police Officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate of the district or to the Magistrate of the division of a district.

When there is any doubt regarding the cause of death, the Police Officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon or other medical officer appointed in this behalf by the local Government, if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay, the head of the village may also in like manner make the investigation and report to the nearest Magistrate duly authorized.

Power to summon persons.

CXXXIV. An officer in charge of a Police station may, by an order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Any person so summoned shall be bound to attend and to answer all questions other than questions which would criminate him.

If the facts do not disclose a cognizable offence to which Section 127 is applicable, such persons shall not be required by the Police Officer to attend a Magistrate's Court.

Inquiry into cause of such death by nearest Magistrate.

CXXXV. The nearest Magistrate, duly authorized, may hold an inquiry into the cause of any such death, either instead of or in addition to the investigation held by the Police Officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, although no specific charge has been made against any person. The Magistrate holding such an inquiry shall record the evidence taken upon it in any of the manners hereinafter prescribed, according to the circumstances of the case.

Substitute for officer in charge of Police station during his absence or illness.

CXXXVI. The powers to be exercised by an officer in charge of Police station under this chapter shall be exercised, in the event of his absence from the station-house or of his illness, by the Police Officer next in rank present at the Police station, above the rank of a constable.

Powers of superior officers of Police.

CXXXVII. Officers of Police superior in rank to officers in charge of a Police station may exercise the same powers throughout their local jurisdictions as may be exercised by officers in charge of Police stations within the limits of such stations.

Assistant District Superintendent of Police may exercise powers of District Superintendent.

CXXXVIII. For the purposes of this Act, an Assistant District Superintendent of Police may exercise any of the powers of a District Superintendent of Police, subject to the control of such District Superintendent of Police; or, in the absence of the District Superintendent of Police and the Assistant District Superintendent, the senior officer of Police on the spot may be directed by

the Magistrate of the district to exercise the powers of a District Superintendent of Police.

PART IV.

OF PROCEEDINGS TO COMPEL APPEARANCE.

CHAPTER XI.

OF COMPLAINTS TO A MAGISTRATE.

Processes.

CXXXIX. Proceedings to compel the appearance before a Magistrate of persons accused or suspected of offences, who have not been arrested without warrant, may be by summons or by warrant.

When summons or warrant may be issued.

CXL. A summons or a warrant may be issued :—

(*a.*) Upon a report by the Police under Chapter X.; but if the person complained of is already in custody, no complaint, summons, or warrant is necessary.

(*b.*) Upon information or report by a Police Officer as to a non-cognizable offence. Such information or report shall be regarded as a complaint.

(*c.*) Upon a complaint by a private person. Any person acquainted with the facts of a case may make a complaint.

(*d.*) Upon suspicion entertained by a Magistrate that an offence has been committed.

Who may entertain complaints.

CXLI. The Magistrate of the district,

any Magistrate of a division of a district, or

any Magistrate duly empowered in that behalf, in any case which he is competent to try or to commit for trial,

may entertain a complaint of an offence, whether perferred directly by the complainant, or on report of a Police Officer, and may issue process in the manner hereinafter prescribed to compel the appearance of persons accused of such offences.

Effect of reference.

Any Magistrate to whom any case is duly referred by any Magistrate duly empowered to make such reference, may dispose of such case.

Effect of complaint or Police report.

A complaint or a Police report gives jurisdiction to a competent Magistrate to inquire into or try any offence covered by the facts complained of or reported, and also to try or commit for trial any person who, at the time when the complaint or report is made, or subsequently, appears to have committed the offence disclosed.

Who may act without complaint.

CXLII. The Magistrate of the district,

any Magistrate of a division of a district,

or any Magistrate duly empowered in that behalf, in any case in which he is competent to try or to commit for trial,

may, without any complaint, take cognizance of any offence which he suspects to have been committed, and may issue process in the

manner hereinafter prescribed to compel the appearance before him of persons whom he suspects to have committed any such offence.

Complaint or sanction required in certain cases.

Nothing in this or in the last preceding section shall be held to authorize a Magistrate to take cognizance of a case without complaint, when the offence falls under Chapters XIX., XX., or XXI. of the Indian Penal Code; nor to entertain a complaint, or to take cognizance without complaint, of an offence without sanction, where such offence, by any law in force, may not be entertained without sanction.

Who may commit for trial.

CXLIII. The Magistrate of the district,
any Magistrate of a division of a district,
any Magistrate of the first class, or,
any Magistrate duly empowered in that behalf,
may commit any person to the Court of Session for any offence triable by such Court.

Examination of complainant.

CXLIV. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made to a Magistrate, such Magistrate, if he is competent to receive such complaint, shall examine the complainant.

The examination shall be reduced into writing in a summary manner and signed by the complainant, and also by the Magistrate.

Effect of irregularity.

Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Procedure by Magistrate not empowered to hear complaint.

CXLV. If the Magistrate be not competent to receive the complaint, he shall refer the complainant to a Magistrate having jurisdiction.

Postponement of issue of process.

CXLVI. If the Magistrate sees cause to distrust the truth of a complaint, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made into the truth of the complaint, either by means of any officer subordinate to such Magistrate, or of a local Police Officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

If such inquiry or investigation is made by means of some person, other than an officer exercising any of the powers of a Magistrate or a Police Officer, such person shall exercise all the powers conferred by this Act on an officer in charge of a Police station, except that he shall have no power to make an arrest.

Dismissal of complaint.

CXLVII. The Magistrate before whom such complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

Issue of process.

If it appears to such Magistrate that there is sufficient ground for proceeding, he shall, if the case appears to be a summons case, issue his summons, or, if the case

appears to be a warrant case, his warrant, for causing the accused person to appear before himself or some other Magistrate having jurisdiction.

In what cases a summons may issue.

CXLVIII. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

In what cases warrant may issue on complaint.

CXLIX. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months;

or when a complaint is made before any Magistrate empowered to commit persons for trial before the Court of Session, that any person has committed, or is suspected of having committed, any offence triable exclusively by the Court of Session, or which, in the opinion of such Magistrate, ought to be tried by the Court of Session,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

Warrant to arrest, if summons not obeyed.

CL. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or, if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

CLI. In cases, of whatever nature, in which the Magistrate thinks fit to issue a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person and permit him to appear by an agent duly authorized to act in his behalf.

But it shall be in the discretion of such Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

CHAPTER XII.

Of the Summons.

Form of summons.

CLII. Every summons issued by a Magistrate to an accused person shall be in writing, in duplicate, and shall be signed and sealed by such Magistrate, and shall

be in the Form (A) given in the second schedule to this Act, or to the like effect.

Summons by whom served.

CLIII. A summons shall ordinarily be served through a Police Officer; but the Magistrate issuing the summons may, if he sees fit, direct it to be served by any other person.

Summons how to be served.

CLIV. The summons shall be served on the accused personally, in any district where he may be, by exhibiting one of the copies and delivering or tendering the other copy to him; or, in case the accused person cannot be found, the copy may be left for him with some adult male member of his family residing with him, and the person summoned, or the person with whom the copy is left, shall sign a receipt therefor.

Service when accused cannot be found.

CLV. When the accused person cannot be found, and there is no adult male member of his family, on whom the service can be made, the serving officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Issue of warrant in addition to summons.

CLVI. A Magistrate may, notwithstanding the issue of such summons, either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Summons or warrant for offence committed beyond local jurisdiction.

CLVII. The Magistrate of the district, a Magistrate of a division of a district, or a Magistrate of the first class duly authorized in that behalf and having local jurisdiction in such district or division of a district, may issue a summons or warrant for the apprehension of any person within such district or division of a district, in respect of any offence known or suspected to have been committed by such person in a different district or division of a district, or on the high seas, or in a foreign country, and for which, if committed within the local jurisdiction of such Magistrate, he might issue a summons or warrant.

Provisions in this chapter as to form, service, and issue of summons, applicable to all summonses.

CLVIII. The provisions relating to a summons, its issue and service, contained in this chapter, shall be applicable to every summons issued under this Act, except a summons to serve as a juror or assessor:

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER XIII.

Of the Warrant.

Form of warrant.

CLIX. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the Form (B) given in the second schedule to this Act, or to the like effect.

Effect of warrant of arrest.

The warrant issued under this chapter remains in force until the person arrested is brought into the presence of the Magistrate who issued it, and so long as he remains before such Magistrate. If the person arrested is to be remanded to custody, an order must be made under Section 194, or a warrant issued under Section 303.

Magistrate may direct bail to be taken.

CLX. It shall be in the discretion of a Magistrate, in issuing a warrant for the arrest of any person, to direct, by endorsement on the warrant, that if such person be willing and ready to give bail, in a sum to be fixed by the Magistrate, for his appearance before the Magistrate on a specified day, [which sum and day shall be named in such endorsement,] to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

Bail-bond to be forwarded.

If bail is given, the officer shall forward the bail-bond to the Magistrate.

Warrants to whom directed.

CLXI. A warrant shall ordinarily be directed to a Police Officer; but the Magistrate issuing a warrant may, if immediate execution be necessary, and no Police Officer be immediately available, direct it to any other person.

Warrant may be directed to landholders, &c.

CLXII. The Magistrate of the district may direct a warrant or warrants to landholders, farmers, or managers of land for the arrest of any escaped convict, proclaimed offender, or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Such landholder or other person shall acknowledge the receipt of the warrant, and shall be bound to execute it, should the person, for whose arrest it was issued, enter on or be in his estate, farm, or land under his charge.

Should the person against whom such warrant is issued be arrested, he shall be made over to the nearest Police Officer with the warrant, and such Police Officer shall cause such accused person to be carried before the Magistrate having jurisdiction, unless bail may be and is taken under Section 160.

Warrants directed to any person other than a Police Officer.

CLXIII. When a warrant is directed to a person other than a Police Officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Warrant to several persons.

CLXIV. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant directed to Police Officer.

CLXV. A warrant directed to a Police Officer may also be executed by any other Police Officer, whose name is endorsed upon the warrant by the officer to whom the warrant is directed or endorsed.

Magistrate issuing warrant may superintend its execution.

CLXVI. The Magistrate, by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed.

Arrest in presence of Magistrate.

Any Magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

Where warrant may be executed.

CLXVII. A warrant, issued by a Magistrate, shall ordinarily be executed in the district in which it was issued.

But if the person, against whom the warrant is issued, escapes, goes into, or is in any place out of the district in which the warrant was issued, the warrant may be executed in such place.

Magistrate may issue warrant for execution in places outside his jurisdiction.

CLXVIII. A Magistrate may direct a warrant to be executed outside his local jurisdiction, either after endorsement by a Magistrate within whose local jurisdiction it is to be executed, or without such endorsement.

If the warrant is to be so endorsed, it may be sent by post to the Magistrate within whose local jurisdiction it is to be executed and by whom it is to be endorsed.

If the warrant is not to be endorsed, it shall be entrusted to a Police Officer, to be taken either to a Magistrate or to a Police Officer, not below the rank of an officer in charge of a station, in whose local jurisdiction the warrant is to be executed.

Procedure on arrest of person against whom warrant was issued.

CLXIX. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Magistrate, who issued the warrant, be within twenty miles or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under Section 160, be carried before the Magistrate in whose local jurisdiction the arrest was made.

Procedure by Magistrate before whom arrested person is brought.

CLXX. A Magistrate or Police Officer, to whom a warrant is directed for execution, shall execute the same or cause it to be executed, and any Magistrate, before whom a person is brought under the provisions of Section 169, shall, if the person arrested appears to be the person intended by the Magistrate who issued the warrant, direct his removal in custody to the Magistrate who issued the warrant;

or, if the offence be bailable, and the person arrested be ready and willing to give bail, shall take bail for his appearance before the Magistrate who issued the warrant, and the recognizance or bail-bond shall be forwarded to such Magistrate.

In this section the word Magistrate includes a Commissioner of Police and a Magistrate of Police in the Presidency towns.

Proclamation for person absconding.

CLXXI. If any person accused of an offence not coming within Section 148, absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate having jurisdiction shall, if he thinks, whether after taking evidence or not, that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

Such proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly made, shall be conclusive evidence of due compliance with the law.

Attachment of property of person absconding.

CLXXII. Such Magistrate may order the attachment of any property, movable or immovable, or both, belonging to the person so absconding or concealing himself.

Such order shall authorize the attachment of any property within the jurisdiction of the Magistrate of the district in whose district it is made; and it shall authorize the attachment of any property without the jurisdiction of the Magistrate of the district, when endorsed by the Magistrate of the district in which such property is situated.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the district in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate having jurisdiction, or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as such Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner.

Restoration of forfeited property.

CLXXIII. When any person whose property has come under the disposal of Government under Section 172, appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Court of Session or High Court trying him for the offence of which he was accused, or, if he is not tried in, or committed for trial for that offence to either of those Courts, to the satisfaction of the Magistrate of the district, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

Magistrate's procedure on arrest under his own warrant for offence committed out of his jurisdiction.

CLXXIV. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of Section 157, in respect of an offence known or suspected to have been committed in another district or division of a district, the Magistrate who issued the warrant shall, unless he is authorized to complete the inquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or shall take bail for his appearance before such Magistrate, if the offence, of which such person is suspected, is bailable.

When the Magistrate, who issued the warrant, cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

Procedure where such warrant issued by subordinate Magistrate.

CLXXV. If the arrest was made under a warrant issued under Section 157 by a Magistrate other than the Magistrate of the district, such Magistrate shall send the person arrested to the Magistrate of the district, unless the Magistrate, in whose jurisdiction the offence is suspected to have been committed, issues his warrant for the arrest of such person; in which case the person arrested shall be delivered to the Police Officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence, of which the person arrested is suspected, has been committed in the jurisdiction of another subordinate Court of same district, the Magistrate who issued the warrant under Section 157 shall send the person arrested to the Magistrate of the division of the district in which the offence was committed.

Notification of substance of warrant.

CLXXVI. A Police Officer or other person executing a warrant of arrest, shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

Warrant how to be executed.

CLXXVII. In making an arrest, the Police Officer, or other person executing the warrant, shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

CLXXVIII. If a person against whom a warrant of arrest is issued, forcibly resists the endeavour to arrest him, the Police Officer or other person executing the warrant may use all means necessary to effect the arrest.

Search of house entered by person against whom warrant issued.

CLXXIX. If there is reason to believe that any person against whom a warrant has been issued, has entered into, or is within, any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police Officer or other person executing the warrant, to allow such Police Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking of door or window.

CLXXX. The Police Officer, or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused or of any other person, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking open zenana.

CLXXXI. If information be received that a person, accused of any offence for which a warrant may issue, is concealed in an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police Officer or other person employed to execute the warrant shall take such precautions as may be necessary to prevent the escape of the accused person.

If the accused person does not deliver himself up, the Police Officer or other person authorized to execute the warrant may notify his authority and purpose, and demand admittance.

If after such notification and demand he cannot otherwise obtain admittance, he shall give notice to any woman as aforesaid in such apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and execute the warrant.

No unnecessary restraint.

CLXXXII. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Person arrested to be brought before Magistrate.

CLXXXIII. The officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

Inducements to disclosure or confession.

CLXXXIV. No Police Officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure.

But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

Provisions as to warrant and its execution and issue, applicable to all warrants of arrest.

CLXXXV. The provisions relating to a warrant and its execution contained in this chapter shall be applicable to every warrant of arrest issued under this Act.

PART V.

Of Inquiries and Trials.

CHAPTER XIV.

Preliminary.

Right of accused to be defended.

CLXXXVI. Every person charged before any Criminal Court with an offence, may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the provisions of Act No. XX. of 1865, or any other law in force for the time being relating to pleaders.

Any such person may, with the permission of the Court (but not otherwise), employ any mookhtár or other person not being a barrister, attorney, or pleader, to assist him in his defence.

Where accused person does not understand the proceedings.

If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court, with a report of the

circumstances of the case, and the High Court shall pass thereon such order as to it seems fit.

Criminal Courts to be open.

CLXXXVII. The place in which the Court of a Magistrate is held for the trial of any offence, or for the purpose of conducting an inquiry into any case triable by a Court of Session or High Court, and also every Court of Session and every High Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them.

But the Magistrate or presiding Judge may, if he thinks fit, order that, during the inquiry into or trial of any particular case, no person shall have access to, or be, or remain in the room or building used by the Court, without the consent or permission of the Court.

Compounding offences.

CLXXXVIII. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Such withdrawal from the prosecution shall have the effect of an acquittal of the accused person.

CHAPTER XV.

Of Inquiry into Cases Triable by the Court of Session or High Court.

Procedure in preliminary inquiries.

CLXXXIX. The following procedure shall be adopted in inquiries before the Magistrates in cases triable by a Court of Session or High Court.

Examination of complainant and witnesses for prosecution.

CXC. When the accused person appears or is brought before the Magistrate, or, if his personal attendance is dispensed with when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

Examination to be in presence of accused.

CXCI. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent, when his personal attendance is dispensed with and he appears by agent.

Accused may cross-examine.

The accused person or his agent shall be permitted to examine and re-examine his own witnesses, and to cross-examine the complainant and his witnesses.

Power of Magistrate to summon and examine any person.

CXCII. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and re-call and re-examine any person already examined.

Examination of accused.

CXCIII. The Magistrate may, from time to time, at any stage of the inquiry and without previously warning the accused person, examine him, and put such questions to him as he considers necessary.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them; but the Magistrate shall draw such inference as may to him seem just from such refusal.

Explanation.—The answer given by an accused person may be put in evidence against him, not only in the case under inquiry, but also in trials for any other offences which his replies may tend to show he has committed.

Adjournment of inquiry and remand.

CXCIV. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time, adjourn the inquiry, and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days.

Instead of detaining the accused person in custody during the period for which he is so remanded, the Magistrate may release him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before such Magistrate at the time and place appointed for the continuance of such examination.

Explanation.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable ground for a remand.

When accused is to be discharged.

CXCV. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under Chapters XVI., XVII., or XVIII. of this Act.

Explanation 1.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

Explanation 2.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

Explanation 3.—An order of discharge cannot be made until the evidence of the witnesses named for the prosecution has been taken.

When accused is to be committed for trial.

CXCVI. When evidence has been given before a Magistrate, which appears to justify him in sending the accused person to take his trial for an offence which is triable exclusively by the Court of Session or High Court, or which, in the opinion of the Magistrate, is one which ought to be tried by such Court, the accused person shall be sent for trial by such Magistrate before the Court of Session or High Court, as the case may be.

When commitment to be to a High Court.

CXCVII. If such accused person (not being a European British subject) is accused of having committed an offence conjointly with a European British subject who is about to be committed for trial, or to be tried, before the High Court on a similar charge, and the evidence appears to justify the Magistrate in sending the accused person for trial, he shall commit such accused person to

take his trial before such High Court and not before a Court of Session; and such High Court shall have jurisdiction to try such person.

Explanation.—A commitment once made by a competent Magistrate, can be quashed by the High Court only, and only on a point of law.

This explanation applies also to Section 196.

Contents of charge.

CXCVIII. When the Magistrate determines to send the accused person before the Court of Session or High Court for trial, he shall, after the evidence has been recorded, make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge. He shall also record his reasons for committing such accused person.

Copy of charge.

A copy of such instrument shall be forwarded, with the record of the original inquiry, to the Court of Session before which the accused person is to be tried; and a copy shall also be sent to the public prosecutor or other officer appointed to conduct the prosecution.

Any weapon or other article of property necessary to produce in evidence shall also be transmitted to the Court of Session.

When a commitment is made to the High Court, such instrument, record, and such weapon or other article, shall be forwarded to the Clerk of the Crown or other officer appointed by the Court, and if any part of such record is not in English, a translation thereof, in English, shall be forwarded therewith.

Copy of charge to be furnished to accused.

CXCIX. As soon as the charge, on which the accused person is to be tried, has been prepared, it shall be read and explained to him; and a copy or translation thereof shall be furnished to him, if he so require.

List of witnesses for defence on trial.

CC. The accused person shall be required at once to give in, orally or in writing, a list of witnesses whom he wishes to be summoned to give evidence on his trial before the Court of Session or High Court.

The Magistrate may, if he thinks proper, summon the persons so named to attend and give evidence at the inquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

Further list.

It shall be in the discretion of the Magistrate, subject to the provisions of Section 359, to allow the accused person to give in any further list of witnesses at a subsequent time.

Copies of depositions to be furnished to accused.

CCI. When the inquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions. Such copies shall be made at his expense, unless the Magistrate sees fit to give them free of cost.

When commitment made, Magistrate to give notice to Government prosecutor.

CCII. When the accused person is committed to take his trial before the Court of Session or High Court, the Magistrate shall issue an order to the Public Prosecutor, Government Pleader, or other person appointed by the Government to conduct prosecutions before the Court of Session or High Court, notifying such commitment, and stating the offence in the same form as the charge.

Nothing in this section shall preclude the Magistrate of the district, in a case committed to the Court of Session, if he thinks fit, from appointing a person, other than such Government Pleader or person, to conduct the prosecution.

CHAPTER XVI.

OF THE TRIAL OF SUMMONS CASES BY MAGISTRATES.

Procedure in summons cases.

CCIII. The following procedure shall be observed in the trial of summons cases.

Object and effect of complaint.

No formal charge need at any time be made against the accused person, and neither the complaint nor the summons shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. The Magistrate may convict the accused person of any offence (coming under this chapter) which, from the facts proved, he appears to have committed, whatever may be the nature of the complaint or summons.

When notice is defective.

No defect in the complaint or summons shall affect the validity of the proceedings, unless it appears that the accused person was actually misled by such defect; and in considering whether or not he was so misled, the Court shall have regard to the manner in which the accused person conducted his defence.

Accused person may be admitted to bail, or allowed to be at large on his personal recognizance.

CCIV. If, upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant or otherwise, it shall be at the discretion of the Magistrate to admit him to bail, or allow him to be at large upon his personal recognizance, as the Magistrate directs.

If the accused person cannot give bail, when required to do so, he shall be committed to custody.

Non-appearance of complainant.

CCV. If, upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Substance of complaint to be stated.

CCVI. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Conviction on admission of truth of complaint.

If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly of such offence (coming under this chapter) as he may appear to have committed.

Procedure when no such admission is made.

CCVII. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

CCVIII. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing of the same to a day, to be then appointed and stated in the presence and hearing of the party or parties.

Adjournment.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear, the Magistrate may dismiss the complaint.

CCIX. A Magistrate may dismiss the complaint as frivolous or vexatious, and may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable.

Compensation in cases of frivolous or vexatious complaints.

In such cases, if more persons than one are accused in the complaint, the Magistrate may in like manner award compensation, not exceeding fifty rupees, to each of them.

The sum so awarded shall be recoverable by distress and sale of the movable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the district; and such order shall authorize the distress and sale of any movable property belonging to the complainant without the jurisdiction of the Magistrate of the district, when the order has been endorsed by the Magistrate of the district in which such property is situated, and, if the sum awarded cannot be realized by means of such distress, by imprisonment of the complainant in the civil jail, for any time not exceeding thirty days, unless such sum is sooner paid.

Recovery of such compensation.

CCX. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it.

Withdrawal of complaint.

A complaint withdrawn under this section shall not again be entertained.

CCXI. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record a judgment of acquittal.

Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of such accused person's agent, if he has been permitted to appear by agent; or the accused person may be required to attend to hear such sentence.

CCXII. The dismissal of a complaint under this chapter shall operate in like manner as the acquittal of the accused person.

Effect of dismissal.

No complaint shall be dismissed under the provisions of this chapter except in so far as it refers to a summons case.

CHAPTER XVII.

OF THE TRIAL OF WARRANT CASES BY MAGISTRATES.

Procedure in warrant cases.

CCXIII. The following procedure shall be observed by Magistrates in the trial of warrant cases.

Sections 190 to 194 to apply.

CCXIV. The provisions of Sections 190 to 194 (both inclusive) shall apply to trials conducted under this chapter.

Discharge of accused.

CCXV. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate considers necessary, have been taken, the Magistrate, if he finds that no offence has been proved against the accused person, shall discharge him.

Explanation 1.—The absence of the complainant, except where the offence may be lawfully compounded, shall not be deemed sufficient ground for a discharge, if there appears other evidence sufficient to substantiate the offence.

Explanation 2.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

Explanation 3.—An order of discharge cannot be passed until the evidence of the witnesses named for the prosecution has been taken.

Charge to be drawn, when offence is apparently proved.

CCXVI. If the Magistrate finds that an offence is apparently proved against the accused person, which such Magistrate is competent to try, and which, in his opinion, could be adequately punished by him, he shall prepare in writing a charge against the accused person.

Explanation 1.—The omission to prepare a charge shall not invalidate the trial, if, in the opinion of the Court of appeal or revision, no failure of justice has been occasioned thereby.

Explanation 2.—If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to prepare a charge, it shall order the trial to be recommenced from the point at which the charge should have been drawn up.

Plea.

CCXVII. The charge shall then be read and explained to the accused person, and he shall be asked whether he is guilty, or has any defence to make.

Defence.

CCXVIII. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to re-call and cross-examine the witnesses for the prosecution.

If the accused person puts in any written statement, the Magistrate may file it with the record, but shall not be bound to do so.

Evidence for the defence.

CCXIX. The Magistrate shall, subject to the provisions of Section 362, summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may for this purpose, at his discretion, adjourn the trial from time to time, as may be necessary.

Acquittal.

CCXX. If the Magistrate finds the accused person not guilty, he shall record judgment of acquittal.

Conviction.

If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Explanation.—If a charge is drawn up, the prisoner must either be acquitted or convicted. If no charge is drawn up, there can be no judgment of acquittal or conviction, except in the case provided for in Explanation 1 to Section 216.

How the Magistrate is to proceed when, after commencement of trial, he finds the case beyond his jurisdiction.

CCXXI. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or one which, in the opinion of such Magistrate, ought to be tried by the Court of Session or High Court, the Magistrate shall stop further proceedings under this chapter, and shall, when he either cannot or ought not to make the accused person over to an officer empowered under Section 36, commit the prisoner under the provisions hereinbefore contained. If such Magistrate is not empowered to commit, he shall proceed under Section 54.

CHAPTER XVIII.

Of Summary Trials.

What offences may be tried summarily.

CCXXII. The Magistrate of the district may try the following offences in a summary way, and, on conviction of the offender, may pass such sentence as may be lawfully inflicted under Section 20 of this Code:—

(1).—Offences referred to in Section 148 of this Code.

(2).—Offences relating to weights and measures under Sections 264, 265, and 266 of the Indian Penal Code.

(3).—Hurt, under Section 323 of the Indian Penal Code.

(4).—Theft, under Section 379 of the Indian Penal Code, where the value of the property stolen does not exceed fifty rupees.

(5).—Theft, under Section 380 of the Indian Penal Code, where the value of the property stolen does not exceed fifty rupees.

(6).—Theft, under Section 381 of the Indian Penal Code, where the value of the property stolen does not exceed fifty rupees.

(7).—Receiving stolen property, under Section 411 of the Indian Penal Code.

(8).—Mischief, under Section 427 of the Indian Penal Code.

(9).—House-trespass, under Section 448 of the Indian Penal Code.

(10).—Criminal intimidation, under Sections 504 and 506 of the Indian Penal Code.

(11).—Abetment of, or attempt to commit (when such attempt is an offence), any of the foregoing offences.

Power to invest Magistrates with power to try summarily.

CCXXIII. The local Government may invest any Magistrate of the first class with power to try summarily all or any of the offences mentioned in Section 222.

Power to invest bench of Magistrates invested with first class magisterial powers with certain powers.

CCXXIV. The local Government may invest any bench of Magistrates invested with the powers of a Magistrate of the first class, with power to try summarily all or any of the offences mentioned in Section 222.

Power to invest with certain powers bench of Magistrates invested with less power.

CCXXV. The local Government may invest any bench of Magistrates invested with the powers of a Magistrate of the second or third class, with power to try summarily all or any of the following offences:—

Offences coming within Sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 of the Indian Penal Code; any offences against Municipal Acts; and the conservancy clauses of Police Acts punishable with fine or with imprisonment not exceeding one month.

Procedure for summons and warrant cases applicable with certain exceptions.

CCXXVI. In trials under this chapter the provisions of this Code in regard to summons cases shall be followed in respect of summons cases, and the procedure for warrant cases in respect of warrant cases, with the exceptions hereinafter provided.

Record in cases where there is no appeal.

CCXXVII. In cases where no appeal lies, the Magistrate or bench of Magistrates need not record the evidence of the witnesses, nor the reasons for passing the judgment, nor draw up a formal charge, but he or they shall enter in a register, to be kept for the purpose, the following particulars:—

(*a*).—The serial number;

(*b*).—The date of the commission of the offence;

(*c*).—The date of the report or complaint;

(*d*).—The name of the complainant;

(*e*).—The name, parentage, and residence of the accused person;

(*f*).—The offence complained of or proved;

(*g*).—The prisoner's plea;

(*h*).—The finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(*i*).—The sentence; and

(*j*).—The date on which the proceedings terminated.

Record in appealable cases.

CCXXVIII. If a Magistrate or bench of Magistrates, acting under Sections 222, 223, or 224, passes a sentence of more than three months' imprisonment, or of fine exceeding 200 rupees;

or if a bench of Magistrates, acting under Section 225, convicts any person,

such Magistrate or bench of Magistrates shall, before passing sentence, record a judgment embodying the substance of the evidence on which the conviction was had, and also the particulars mentioned in Section 227.

Such judgment shall be the only record in cases coming within this section.

Language of judgment.

CCXXIX. Records made under Section 227 and judgments recorded under Section 228 shall be written by the presiding officer, either in English or in the language of the district in which the trial was held, or, by direction of the Court to which such presiding officer is immediately subordinate, in the language of the presiding officer.

Bench of Magistrates may be empowered to employ clerk.

CCXXX. The local Government may authorize any bench of Magistrates, empowered to try offences summarily, to prepare the aforesaid record or judgment by means of an officer of such Court, and the record or

judgment so prepared shall be signed by each member of such bench present conducting the proceedings.

CHAPTER XIX.

TRIAL BY COURT OF SESSION.

Cognizance of offences by Court of Session.

CCXXXI. No Court of Session shall take cognizance of any offence, as a Court of original criminal jurisdiction, unless the accused person has been committed by a Magistrate duly empowered in that behalf, except in the cases referred to in Section 472.

Trials to be by jury or with assessors.

CCXXXII. All trials before the Court of Session shall be either by jury, or conducted with the aid of two or more assessors.

Local Government may order trials before Court of Session to be by jury.

CCXXXIII. The local Government may order that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury, in any district, and such local Government may from time to time revoke or alter such order.

Orders passed under this section shall be published in the official Gazette, and in such other manner as the local Government from time to time directs.

Explanation.—If an offence triable with assessors is tried by a jury, the trial shall not on that ground merely be invalid. If an offence triable by a jury is tried with assessors, the trial shall not on that ground merely be invalid, unless objection be taken before the Court records its finding.

Jury for trial of Europeans or Americans.

CCXXXIV. Criminal trials before the Court of Session in which a European (not being a European British subject) or an American is the accused person, or one of the accused persons, shall be by jury.

In such case the jury, if such European or American desire it, shall consist of at least one-half of Europeans, whether European British subjects or not, or Americans, if such a jury can be procured:

Election to be tried without jury.

Provided that, in any district in which the local Government has not ordered that all trials before the Court of Session, or trials for all offences of the class within which the trial about to take place falls, shall be by jury, such European or American may elect to be tried without jury.

Trial before Court of Session to be conducted by Public Prosecutor, or Government Pleader.

CCXXXV. In every trial before a Court of Session, the prosecution shall be conducted by the Public Prosecutor, Government Pleader, or some other officer specially empowered by the Magistrate of the district in that behalf.

Number of jury.

CCXXXVI. In trials by jury before the Court of Session, the jury shall consist of such uneven number, not being less than three nor more than nine, as the local Government, by any general order applicable to any particular district or to any particular classes of offences in that district, directs.

Commencement of trial.

CCXXXVII. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

If the accused person pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead, or claim to be tried.

CCXXXVIII. If the accused person refuses to, or does not plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed, and to try the case.

Assessors how chosen.

CCXXXIX. When the trial is to be with assessors, the assessors shall be chosen, as the Judge thinks fit, from the persons summoned to act as assessors.

Jurors to be chosen by lot.

CCXL. When the trial is to be by jury, the jury shall be chosen by lot from the persons summoned to act as jurors.

Jury for trial of persons not Europeans or Americans.

CCXLI. In a trial by jury before the Court of Session of a person not being a European or an American, at least one-half of the jury shall, if the accused person desire it, consist of persons who are neither Europeans nor Americans.

Jury when European or American charged jointly with one of another race.

CCXLII. In any case before the Court of Session, in which a European or American is charged jointly with a person of any other race, such other person shall, if he desire it, be tried separately, if the European or American claims to be tried by a jury consisting of at least one-half of Europeans and Americans.

Names of jurors to be called.

CCXLIII. As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused person shall be asked if he objects to be tried by such juror.

Objections to jurors.

Objection may then be made to such juror by the accused person, or by the Public Prosecutor, Government Pleader, or other person appointed to conduct the prosecution, and the grounds of objection shall be stated.

Any objection made to a juror shall be decided by the Court, and the decision of the Court shall be final.

If an objection be allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons; or, if there be no such juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided no objection to such juror or other person be made and allowed.

Grounds of objection.

CCXLIV. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(1) any ground of disqualification within Section 405 ;

(2) standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused ;

(3) being in the employment of any of such persons;

(4) being plaintiff or defendant against any of such persons in any civil suit;

(5) having complained against, or having been accused by, any of such persons in any criminal prosecution;

(6) any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favour to, any of such persons, or which renders such person improper as a juror.

Juror to understand the language in which evidence is given or interpreted.

CCXLV. The Judge shall not allow any person to serve on the jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of jury.

CCXLVI. When the jury has been completed, they shall appoint one of their number to be foreman.

It shall be the duty of the foreman to preside in the debates of the jury, to deliver the verdict of the jury, and to ask any information from the Court that may be required by the jury.

If a majority of the jury do not agree in the appointment of a foreman, he shall be named by the Court.

Examination of witnesses.

CCXLVII. The witnesses shall then be examined, cross-examined, and re-examined, according to the law for the time being relating to the examination of witnesses.

Examination of accused before Magistrate to be evidence.

CCXLVIII. The examination of the accused person before the committing Magistrate shall be given in evidence at the trial.

Evidence given at the preliminary inquiry admissible.

CCXLIX. When a witness is produced before the Court of Session, or High Court, the evidence given by him before the committing Magistrate may be referred to by the Court, if it was duly taken in the presence of the accused person; and the Court may, if it think fit, ground its judgment thereon, although the witnesses may at the trial make statements inconsistent therewith.

Explanation.—This section shall not authorize the Court to refer to the record of the evidence given by a witness who is absent, except in the cases in which evidence may be referred to under the Indian Evidence Act or other law in force for the time being upon the subject of evidence.

Examination of accused.

CCL. The Court may from time to time, at any stage of the trial, examine the accused person, and shall question him generally on the case after the witnesses for the prosecution have been examined, and before he is called on for his defence.

Defence.

CCLI. When the examination of the witnesses for the prosecution and the examination of the accused person is concluded, the accused person shall be asked whether he means to call witnesses. If he says that he does not, the prosecutor may sum up his case. The Court may then, if it thinks that there are no grounds for proceeding,

in a case tried with assessors, record a finding, or, in a case tried by a jury, instruct the jury to return a verdict of acquittal.

If the Court considers that there are grounds for proceeding, it shall call on the accused person to state his grounds of defence and produce his witnesses.

The accused person or his counsel or authorized agent may then state the case for the defence, and may examine the witnesses, if any, produced for the defence, and at the conclusion of such examination may sum up his case.

Prosecutor's right of reply.

CCLII. If any evidence is adduced on behalf of the accused person, the officer conducting the prosecution shall be entitled to reply.

View of the place by jury or assessors.

CCLIII. Whenever, in the opinion of the Court, it is proper and convenient that the jury or assessors should view the place in which the offence charged is said to have been committed, or any other place in which any other transaction material to the inquiry in the trial took place, an order shall be made to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place which shall be shown to them by a person appointed by the Court.

Such officer shall not suffer any other person to speak to, or hold any communication with any of the jury or assessors; and they shall, when the view is finished, be immediately conducted back into Court.

Procedure when juror becomes unable to attend.

CCLIV. If, in the course of a trial by jury at any time prior to the finding, any juror, from any sufficient cause, is prevented from attending through the trial,

or if any juror absents himself and it is not possible to enforce his attendance,

a new juror shall be added, or the jury shall be discharged, and a new jury empannelled, and in either case the trial shall commence anew.

Assessors' opinion, and charge to jury.

CCLV. When the case for the defence and the prosecutor's reply, if any, are concluded, the Court shall proceed—

in cases tried with assessors, to ask the assessors their opinion, and shall record it:

in cases tried by jury, to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

A statement of the Judge's direction to the jury shall form part of the record.

Duty of Judge.

CCLVI. It is the duty of the Judge to decide all questions of law, and specially all questions as to the relevancy of facts which it is proposed to prove, the admissibility of evidence or the propriety of questions asked by parties or their agents which may arise in the course of the trial, and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

to decide upon the meaning and construction of all documents given in evidence at the trial;

to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

to decide whether any question which arises is for himself or for the jury; and upon this point his decision shall be final.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact relevant to the proceeding.

Illustrations.

(*a.*) It is proposed to prove a statement made by a person not called as a witness under circumstances which render evidence of his statement admissible.

It is for the Judge and not for the jury to decide whether the existence of those circumstances has been proved.

(*b.*) It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

Duty of jury.

CCLVII. It is the duty of the jury—

(1) to decide which view of the facts is true, and then to return the verdict which, under such view, ought, according to the direction of the Judge, to be returned;

(2) to determine the meaning of all technical terms and words used in an unusual sense which it may be necessary to determine, whether such words occur in documents or not;

(3) to decide all questions declared by the Indian Penal Code, or any other law, to be questions of fact;

(4) to decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which case it is the duty of the Judge to decide their meaning.

Illustrations.

(*a.*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the fact is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b.*) The question is whether a person entertained a reasonable belief on a particular point. Whether work was done with reasonable skill, or due diligence.

Each of these is a question for the jury.

When a juryman or assessor may be examined.

CCLVIII. If a juryman or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be examined, cross-examined, and re-examined in the same manner as any other witness.

Procedure when an assessor is unable to attend.

CCLIX. If, in the course of a trial with the aid of assessors, at any time prior to the finding, any assessor is, from any sufficient cause, prevented from attending through the trial, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

Jury or assessors to attend at adjourned sitting.

CCLX. If a trial is adjourned, the jury or assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Cases tried with assessors.

CCLXI. In cases tried with assessors, the Court shall proceed to pass judgment of acquittal or conviction, having considered the opinions of the assessors, but not being bound to conform to them. If the accused person is convicted, the Court shall proceed to pass sentence on him according to law.

Decision vested in Judge.

CCLXII. The opinion of each assessor shall be given orally, and shall be recorded in writing by the Court; but the decision is vested exclusively in the Judge.

Cases tried by juries.

CCLXIII. In cases tried by jury, the jury may retire to consider their verdict. It shall be the duty of an officer of the Court not to suffer any person to speak to or hold any communication with any member of such jury. When the jury have considered their verdict, the foreman shall inform the Court what is their verdict, or what is the verdict of a majority.

Verdict to be given on each charge.

Judge may question jury.

The jury shall return a verdict on all the charges on which the accused is tried, and the Court may ask them such questions as are necessary to ascertain what their verdict is. Such questions and the answers to them shall be recorded.

Procedure where jury differ.

If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

If the Court does not think it necessary to dissent from the verdict of a majority of the jurors, it shall give judgment accordingly. If the accused person is acquitted, the Court shall record judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence on him according to law.

If the Court disagrees with the verdict of the jurors, or of a majority of such jurors, and considers it necessary for the ends of justice to do so, it may submit the case to the High Court, and may either remand the prisoner to custody or admit him to bail.

The High Court shall deal with the case so submitted as with an appeal, but it may convict the accused person on the facts, and if it does so, shall pass such sentence as might have been passed by the Court of Session.

Adjournment.

Postponement of trial.

CCLXIV. The Court may, in its discretion, postpone the hearing of the case; and may, from time to time, adjourn the trial, if it considers that such adjournment is proper and will promote the ends of justice.

The same jury or assessors may try in succession several offenders.

CCLXV. The same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as to the Court seems fit.

PART VI.

APPEAL, REFERENCE, AND REVISION.

CHAPTER XX.

APPEALS.

Appeals from officers exercising powers less than those of a Magistrate of the 1st class.

CCLXVI. Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced by a competent Magistrate of the second class under Section 46, may appeal to the Magistrate of the district, or to a Magistrate of the first class who has been empowered by the local Government to hear such appeals.

Appeals in cases of bad livelihood.

CCLXVII. Any person required by a Magistrate of the first class to give security for good behaviour, under Section 504 or Section 505, may appeal to the Magistrate of the district.

Appeals from convictions for contempt.

CCLXVIII. Any person convicted by any Civil, Criminal, or Revenue Court, under Chapter XXXII. of this Act, may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, whatever may be the amount of the sentence passed, subject to the rules provided in Sections 275, 277, 278, 280, 281, and 282.

An appeal from such conviction by a Small Cause Court may be made to the Court of Session within whose Sessions Division Court is situate.

Appeal from Magistrates.

CCLXIX. Any person convicted on a trial held by the Magistrate of the district or other Magistrate of the first class, or any person sentenced under Section 46 by a competent Magistrate of the first class, may appeal to the Court of Session.

The appellant shall in every case give notice of appeal to the Magistrate of the district, who shall, if necessary, instruct the Public Prosecutor, Government Pleader, or other officer empowered by Government or by the Magistrate of the district to prosecute the case.

Appeals by persons convicted by officers invested under Sec. 36.

CCLXX. Any person convicted on a trial held by any officer invested with the power described in Section 36, may appeal to the High Court, if it appear from the sentence awarded that such officer was in such trial exercising such special powers. No appeal in such case shall lie to the Court of Session.

Appeals from convictions of Assistant Sessions Judges.

Any person convicted by an Assistant Sessions Judge may appeal to the Sessions Judge, if the sentence appealed against does not exceed three years' imprisonment.

A sentence of an Assistant Sessions Judge, confirmed, under Section 18, by the Sessions Judge, may be appealed to the High Court.

Appeals by persons convicted by Sessions Court.

CCLXXI. Any person convicted on a trial held by a Sessions Judge may appeal to the High Court.

The appeal may be on a matter of fact as well as on a matter of law.

If the conviction was in a trial by jury, the appeal shall be admissible on a matter of law only.

If such person be sentenced to death, the Sessions Court shall inquire whether he wishes to appeal, and if he signifies his intention to appeal, the Court shall inform him that his appeal must be made within seven days, and shall delay the transmission of the reference hereinafter required for a reasonable time not exceeding seven days, to allow of the appeal and reference being made at the same time.

When it appears that the execution of the sentence should not be delayed, the Sessions Court may record its reasons and forward the reference at once.

In no case requiring confirmation shall the High Court grant a longer delay than is herein allowed for the presentation of an appeal.

Where the reasons given by the Sessions Court for forwarding the reference at once are sufficient, the High Court shall decide the case in the absence of an appeal.

When, under the provisions of the law in force, judgments or orders made or passed by the High Court are made or passed, either in appeal, reference, or revision, by a Court consisting of more than one Judge, any difference of opinion shall be settled by adding, when the High Court is composed of more than two Judges, and the Court is equally divided, one or more Judges, and in such event the judgment or order shall follow the opinion of the majority of the Judges.

No appeal in case of acquittal, except on behalf of Government.

CCLXXII. The local Government may direct an appeal by the Public Prosecutor or other officer, specially or generally appointed in this behalf, from an original or appellate judgment of acquittal; but in no other case shall there be an appeal from a judgment of acquittal passed in any Criminal Court.

Such appeal shall lie to the High Court, and the rules of limitation shall not apply to appeals presented under this section.

The High Court may, in any case so appealed, direct a new trial by another Court, or may pass such judgment, sentence, or order as may be warranted by law.

No appeal in petty cases.

CCLXXIII. There shall be no appeal in cases in which a Court of Session, or the Magistrate of a district or other Magistrate of the first class, passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding 50 rupees only, or of whipping only.

There shall be no appeal from a sentence of imprisonment passed by such Court or officer in default of payment of fine, when no substantive sentence of imprisonment has been passed.

Where an accused person has been convicted on his own plea, whether on a trial with assessors or by jury, there is no appeal, except as to the extent or legality of the sentence.

Appeals from summary convictions.

CCLXXIV. There shall be no appeal in cases tried summarily, in which a Magistrate of the district, or a Magistrate or bench of Magistrates invested with the powers of a Magistrate of the first class, empowered to act under Sections 222, 223, or 224, passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding 200 rupees only, or of whipping only.

An appeal may be brought against any sentence referred to in Section 273 or 274, by which any two or more of the punishments therein mentioned are combined, but not against a sentence in which imprisonment is awarded in default of payment of fine and in addition thereto.

Nor against any sentence, which would not otherwise be liable to appeal, because the person convicted is ordered to find security to keep the peace.

Saving of sentences on European British subjects.

The provisions of this and the last preceding section shall not apply to appeals from orders passed on European British subjects under Section 74 or 76.

Copy of sentence to accompany petition.

CCLXXV. Every petition of appeal shall be accompanied by a copy of the judgment or order appealed against.

Copy of sentence or order to be furnished.

CCLXXVI. A copy of the judgment or other order passed by any Criminal Court, and, in cases tried by jury, of the Judge's charge to the jury, shall be furnished without delay on the application of any person affected by such sentence or order.

Such copy shall be made at the expense of the person applying for it, unless he is in jail, or unless the Court, for some special reason, sees fit to grant such copy free of expense.

Procedure when appellant in jail.

CCLXXVII. If the party appealing be in jail, he shall be at liberty to present his petition of appeal and the copy of the judgment or order appealed against to the Magistrate or other officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Rejection of appeal.

CCLXXVIII. The Appellate Court shall fix a reasonable time within which the appellant or his counsel or authorized agent may appear, and it may reject the appeal, if, on a perusal of the petition of appeal and the copy of the judgment or order appealed against, and after hearing the appellant or his counsel or authorized agent, if he appears, it considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Before rejecting the appeal, the Court may call for and peruse all or any part of the proceedings of the lower Court, but shall not be bound to do so.

Notice of appeal.

CCLXXIX. If the Appellate Court decide to hear the appeal, it shall cause notice to be given to the appellant, and, if the appeal be to the Session or High Court, shall also give notice to the Magistrate of the district, who shall inform, if necessary, the Public Prosecutor, Government Pleader, or other officer empowered by Government on that behalf, of the day on which such appeal will be heard.

Appellate Court may alter or reverse finding and sentence, or enhance a sentence.

CCLXXX. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the appellant, his counsel or agent, if they appear, and the Public Prosecutor, Government Pleader, or other officer empowered by Government or by the Magistrate of the district in that behalf, if he appears, may alter or reverse the finding

and sentence or order of such Court, and may, if it see reason to do so, enhance any punishment that has been awarded:

Provided that, if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

Suspension of sentence pending appeal.

Release of appellant on bail.

CCLXXXI. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

The period during which the sentence is suspended shall be omitted in reckoning the completion of the punishment.

Appellate Court may make or direct further inquiry.

CCLXXXII. In any case, in which an appeal has been allowed, the Appellate Court, if it thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may either make such further inquiry and take such additional evidence itself, or may direct such inquiry to be made and additional evidence to be taken.

If the Appellate Court takes further evidence and passes judgment and sentence, no fresh right of appeal arises in respect of such sentence.

When the evidence has not been taken before itself, the result of the further inquiry and the additional evidence shall be certified to the Appellate Court; and such Court shall thereupon proceed to dispose of the appeal.

Unless the Appellate Court otherwise directs, the presence of the appellant may be dispensed with when the further inquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

CCLXXXIII. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings on or before trial, or on account of the improper admission or rejection of any evidence, or by any misdirection in any charge to a jury, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the prisoner in his defence.

No irregularity in the proceedings up to trial is a sufficient ground for reversing any judgment, sentence, or order made or passed in a trial properly held.

Appellate Court may reduce punishment.

In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence, which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Procedure in case of conviction by Court not having jurisdiction.

CCLXXXIV. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court shall annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Finality of orders on appeal.

CCLXXXV. Judgments, sentences, and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in Sections 272 and 297.

Unless otherwise provided, no appeal to lie from judgment, order, or sentence of Criminal Court.

CCLXXXVI. No appeal shall lie from any judgment, sentence, or order of a Criminal Court, except in the cases provided for by this Act or by any law for the time being in force.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, or to grant an enhanced award.

(*b.*) There is no appeal against an order of a competent Magistrate dismissing a complaint.

(*c.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*d.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour, when such order is passed by the Magistrate of the district.

(*e.*) There is no appeal against an order passed under Chapter XXXIX., nor against a report by a jury under that chapter.

(*f.*) There is no appeal against an order of maintenance.

(*g.*) There is no appeal against an order placing a name on the jury list.

(*h.*) There is no appeal against an order by a Court of Session fining a juror or an assessor for non-attendance.

(*i.*) There is no appeal against the order of a competent Court refusing to order a commitment.

(*j.*) There is no appeal against an interlocutory order, such as a claim to appear by agent.

(*k.*) There is no appeal from an order to pay compensation under Section 22 of Act I. of 1871 (*an Act to consolidate and amend the law relating to trespasses by cattle*).

CHAPTER XXI.

REFERENCE.

Sentence of death.

CCLXXXVII. If the Court of Session pass sentence of death, the proceedings shall be referred to the High Court, and the sentence shall not be executed without its confirmation by the High Court.

If the accused person is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall, in its judgment, state the reason why sentence of death was not passed.

Power of High Court to confirm sentence or annul conviction.

CCLXXXVIII. In any case so referred, whether tried with assessors or by jury, the High Court may either confirm the sentence, or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge, or may acquit the accused person.

Power to direct further inquiry, &c.

CCLXXXIX. If the High Court think further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, it may direct such inquiry to be made, or such additional evidence to be taken.

Unless the Court of reference otherwise directs, the presence of the convicted person may be dispensed with when the further inquiry is made or evidence taken, and neither under this section nor under Section 282 is such inquiry to be made or evidence taken in the presence of jurors or assessors.

The result of the further inquiry and the additional evidence shall be certified to the High Court, and the High Court shall thereupon proceed to pass judgment of acquittal, or to confirm the sentence, or to pass such sentence as it thinks fit.

Confirmation or new sentence to be signed by two Judges.

CCXC. In every case so referred to the High Court, the confirmation of the sentence or any new sentence or order passed by the High Court, shall, when such High Court consists of two or more Judges, be determined and signed by at least two Judges of such Court.

Even when High Court consists of only one.

CCXCI. When a High Court of reference, revision, or appeal consists of a single Judge, such Judge shall have all the powers conferred upon two or more Judges of the High Court by this chapter.

CHAPTER XXII.

SUPERINTENDENCE AND REVISION.

Power of High Court to make rules.

CCXCII. The High Court may make and issue general rules—

for keeping all books, entries, and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts;

and may also frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it thinks that a form should be provided,

and, from time to time, may alter any such rule or form:

and, with the concurrence of the local Government, may make and issue general rules for regulating the practice and proceedings of all Criminal Courts subordinate to it, and, with the like sanction, may alter any such rule:

and, a High Court not established by Royal Charter may, with the concurrence of the local Government, make and issue rules for regulating the practice and proceedings of that Court, and, with the like sanction, may alter any such rule:

Provided that such rules and forms be not inconsistent with the provisions of this Act, or of any other law in force for the time being.

All rules framed by the Court, and all repeals and alterations thereof under this section, shall be published in the official Gazette.

Calendars of trials by subordinate Courts.

CCXCIII. All subordinate Courts shall send to the High Court such periodical statements or calendars, of trials held by such Courts, as the High Court prescribes, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

Power to call for records of subordinate Courts.

CCXCIV. The High Court may call for and examine the record of any case tried by any subordinate Court for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court.

Powers of Court of Session and Magistrate to call for record of subordinate Courts.

CCXCV. Any Court of Session or Magistrate of the district may, at all times, call for and examine the record of any Court subordinate to such Court or Magistrate, for the purpose of satisfying itself or himself as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court.

For the purposes of this section, every Magistrate in a Sessions Division shall be deemed to be subordinate to the Sessions Judge of the division.

Report to High Court.

CCXCVI. If the Court of Session or Magistrate of the district is of opinion that the judgment or order is contrary to law, or that the punishment is too severe or is inadequate, such Court or Magistrate may report the proceedings for the orders of the High Court:

Provided that, in session cases, if a Court of Session or Magistrate of the district considers that a complaint has been improperly dismissed, or that an accused person has been improperly discharged by a subordinate Court, such Court or Magistrate may direct the accused person to be committed for trial.

Powers of revision.

CCXCVII. If in any case either called for by itself or reported for orders, or which comes to its knowledge, it appears to the High Court that there has been a material error in any judicial proceeding of any Court subordinate to it, it shall pass such judgment, sentence, or order thereon as it thinks fit.

Power to order commitment.

If it considers that an accused person has been improperly discharged, it may order him to be tried, or to be committed for trial;

Power to alter finding and sentence.

If it considers that the charge has been inconveniently framed, and that the facts of the case show that the prisoner ought to have been convicted of an offence other than that of which he was convicted, it shall pass sentence for the offence of which he ought to have been convicted:

Proviso as to power of altering finding.

Provided that if the error in the charge appears materially to have misled and prejudiced the accused person in his defence, the High Court shall annul the conviction and remand the case to the Court below with an amended charge, and the Court below shall thereupon proceed as if it had itself amended such charge.

Power to annul conviction.

If the High Court considers that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the trial and order a new trial before a competent Court.

Power to annul improper, and to pass proper sentence.

If it considers that the sentence passed on the accused person is one which cannot legally be passed for the offence of which the accused person has been convicted, or might have been legally convicted upon the facts of the case, it shall annul such sentence and pass a sentence in accordance with law.

If it considers that the sentence passed is too severe, it may pass any lesser sentence warranted by law; if it considers that the sentence is inadequate, it may pass a proper sentence.

Suspension of sentence.

The High Court may, whenever it thinks fit, order that the sentence, in any case coming before it as a Court of revision, be suspended; and that any person imprisoned under such sentence be released on bail, if the offence for which such person has been imprisoned be bailable.

Powers of revision confined to High Court.

Except as provided in Sections 328 and 398, no Court, other than the High Court, shall alter any sentence or order of any subordinate Court, except upon appeal by the parties concerned.

Optional with Court to hear parties.

No person has any right to be heard before any High Court, in the exercise of its powers of revision, either personally or by agent; but the High Court may, if it thinks fit, hear such person either personally or by agent.

Courts may order inquiry.

CCXCVIII. The High Court, the Court of Session, or the Magistrate of the district may order any subordinate Court to inquire into any complaint which has been dismissed under Section 147.

Order on revision to be certified to lower Court or District Magistrate.

CCXCIX. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or if the conviction or order was passed by a Magistrate other than the Magistrate of the district, to the Magistrate of the district.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and, if necessary, the record shall be amended in accordance therewith.

In cases revised by the High Court under this chapter, the High Court shall not alter or reverse the sentence or order of the Court below, except as herein provided; nor shall it reverse or set aside the verdict of a jury, unless it is of opinion that the jury was misdirected by the Judge. In that case it may set aside the verdict and direct a new trial, if it think fit to do so.

Provisions of Section 283 to apply.

CCC. The provisions of Section 283 shall apply to revision orders under this chapter.

PART VII.

EXECUTION.

CHAPTER XXIII.

Procedure in cases referred to High Court for confirmation.

CCCI. In cases referred by the Court of Session for the confirmation of a sentence of death by the High Court, the proper officer of the High Court shall, without delay, after the order of confirmaton or other order has been made by the High Court, send a copy of the order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed or commuted, issue a warrant to the officer in charge of the jail in which the prisoner is confined, to cause the sentence or order to be carried into execution; or, in the case of any other orders, shall cause such orders to be carried into effect.

Court of Session to send copy of finding and sentence to District Magistrate.

CCCII. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the district in which the trial was held.

Warrant of execution.

If the accused person is sentenced to transportation, imprisonment, or whipping, the Court shall forthwith forward him, with a warrant for the execution of the sentence, to the officer in charge of the jail of the district in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted and the period during which he is to be transported or imprisoned, and the nature of the imprisonment or other punishment.

Procedure after sentence passed by Court inferior to Sessions Court.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person, with a similar warrant for the execution of the sentence, to the officer in charge of the jail of the district in which the trial was held.

Form and direction of warrant of commitment.

CCCIII. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor or other officer or person having authority to receive and keep prisoners, and shall be in the form (C. or D., as the case may be) given in the second schedule to this Act, or to the like effect.

Warrant with whom to be lodged.

CCCIV. The warrant of commitment shall be lodged with the jailor, if he be in the jail; and if he be not in the jail, with his deputy.

If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

Execution of sentence under Section 301 or 302.

CCCV. Upon the receipt of a warrant under Section 301 or 302, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his

signature, certifying the manner in which the sentence has been executed.

Postponement of capital sentence on pregnant woman.

CCCVI. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence.

Levy of fine.

CCCVII. Whenever an offender is sentenced to pay a fine, the Court which sentences him may issue a warrant for the levy of the amount by distress and sale of any movable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment.

Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale of any movable property belonging to the offender without the jurisdiction of the said Court, when endorsed by the Magistrate of the district in which such property is situated.

Section to what cases applicable.

This section shall not apply to cases in which any special procedure is laid down by any special or local law in force for the time being for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed.

Who may issue warrant.

The warrant may be issued either by the Judge or Magistrate who passes the sentence or by his successor in office.

Payment of fine in compensation.

CCCVIII. Whenever a Criminal Court imposes a fine under any law in force for the time being, or confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, the Court may order the whole or any part of the fine to be paid in compensation,—

(1) for expenses properly incurred in the prosecution;

(2) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

Imprisonment in default of payment of fine.

CCCIX. In every case punishable, under any law in force for the time being, with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of Sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by a Magistrate.

Provided that, in no case decided by a Magistrate, where imprisonment shall have been awarded as part of the substantive sentence, shall the period of imprisonment, awarded in default of payment of the fine, exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Magistrate may award such term of imprisonment in default of payment of fine as is allowed by law, provided the amount does not exceed the Magistrate's powers under this Act.

Whipping, if awarded in addition to imprisonment, when to be inflicted.

CCCX. When the punishment of whipping is awarded in addition to imprisonment by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the Appellate Court confirming the sentence.

Mode of inflicting the punishment.

CCCXI. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person as the local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school discipline, with a light rattan.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the rattan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of a Magistrate, and also, unless the Court which passed the sentence otherwise orders, in the presence of a medical officer.

Punishment not to be inflicted, if offender not in fit state of health.

CCCXII. No sentence of whipping shall be carried into execution, unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate present, that the offender is in a fit state of health to undergo the punishment.

Stay of execution to be final.

If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate present, that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

Whipping not to be executed by instalments.

No sentence of whipping shall be executed by instalments.

Procedure if punishment cannot be inflicted under the last section.

CCCXIII. In any case in which under Section 312 a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either order the discharge of such offender, or sentence him, in lieu of whipping, or in lieu of so much of the sentence

of whipping as was not carried out, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the said Court is competent to award.

Sentence in cases of simultaneous conviction of several offences.

CCCXIV. When a person is convicted at one trial of two or more offences punishable under the same or different sections of any law for the time being in force, the Court may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Court is competent to inflict; such penalties, when consisting of imprisonment or transportation, to commence the one after the expiration of the other.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Maximum term of imprisonment.

Provided that in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

Provided also, that, if the case be tried by a Magistrate (other than a Magistrate acting under Section 36), the punishment shall not in the aggregate exceed twice the amount of punishment which he is by his ordinary jurisdiction competent to inflict.

Trial of previously convicted persons.

CCCXV. Whoever, having been convicted of an offence punishable under Chapter XII. or Chapter XVII. of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate considers him an habitual offender, be committed to the Court of Session:

Proviso.

Provided that, in districts in which the Magistrate of the district has been invested with powers under Section 36, the accused person may be placed on his trial before such Magistrate of the district.

Currency of sentence on escaped convicts.

CCCXVI. When sentence is passed on an escaped convict for such escape or for any other offence, the Court may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period, equal to that which remained unexpired of his former sentence at the time of his escape.

Sentence on offender already sentenced for another offence.

CCCXVII. When sentence is passed on a person already under sentence of imprisonment or transportation, and the sentence is for imprisonment or transportation, the Court shall direct that such imprisonment or transportation shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced,

or, if he is undergoing a sentence of imprisonment and the sentence, on such subsequent conviction, be for transportation, the Court may direct that the sentence shall commence immediately, or at the

expiration of the imprisonment to which such person has been previously sentenced:

Proviso.

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

Confinement of youthful offenders in reformatories.

CCCXVIII. When any person, under the age of sixteen years, is sentenced by any Criminal Court to imprisonment for any offence, such Court may direct that such offender, instead of being imprisoned in the Criminal jail, shall be confined in any reformatory established by the local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed by Government.

Governor-General in Council to appoint places to which persons sentenced to transportation may be sent.

Local Government to direct removal of such persons to places appointed.

CCCXIX. The Governor-General of India in Council may, from time to time, appoint a place or places within British India to which persons sentenced to transportation shall be sent: the local Government, or some officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed; and no sentence of transportation shall specify the place to which the person sentenced is to be transported.

Person sentenced to transportation, while undergoing transportation under previous sentence, need not be removed.

CCCXX. When sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the local Government to order his removal from the place in which he is so undergoing transportation.

Sentence of death.

CCCXXI. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Power to remit punishment.

CCCXXII. When any person has been sentenced to punishment for an offence, the Governor-General of India in Council, or the local Government, may, at any time without conditions, or upon any conditions which the person sentenced accepts, remit the whole or any part of the punishment to which he has been sentenced.

If the person, to whom a pardon has been given, fails to fulfil the conditions prescribed by the Governor-General of India in Council, or the local Government, the Governor-General of India in Council or the local Government, as the case may be, may withdraw such pardon, whereupon such person shall be remanded to undergo the unexpired portion of his sentence.

Power to commute punishment.

The Governor-General of India in Council, or the local Government, may also, without the consent of the person sentenced, in substitution for the sentence passed according to law, commute any one of the following sentences for any other mentioned after it—

death, transportation, penal servitude, imprisonment.

PART VIII.

EVIDENCE.

CHAPTER XXIV.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

Evidence of medical witness.

CCCXXIII. The examination of a Civil Surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any criminal trial, although the person examined is not called as a witness.

Court may summon medical witness.

The Court may summon such Civil Surgeon or other medical witness, if it sees sufficient cause for doing so.

Accused may be convicted on his own plea.

CCCXXIV. If an accused person admits the commission of an offence before a Court competent to try him for such offence, such Court may convict him on his own admission.

Report of Chemical Examiner.

CCCXXV. Any document purporting to be a report from the Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Genuineness of signature may be presumed.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Previous conviction or acquittal how to be proved.

CCCXXVI. Where a previous conviction or acquittal is to be proved against an accused person, application shall be made to the officer in whose custody the records of such trial may be. It shall not be necessary to produce the record of the conviction or acquittal of such accused person, or a copy thereof, but an extract may be produced in proof of such conviction or acquittal, if certified under the hand of the Clerk of the Court or other officer having the custody of the records of the Court in which such conviction or acquittal was had, or by the deputy of such Clerk or officer, to be a copy of the charge, finding, and sentence, as the case may be.

Record of evidence in the absence of the accused.

CCCXXVII. If an accused person abscond, and after due pursuit cannot be arrested, any Court competent to try or to commit such accused person for trial for the offence complained of, may, in his absence, record the statements of the persons acquainted with the facts; and such depositions may, on the arrest of such person, be put in on his trial for such offence, if it is not practicable to procure the attendance of such witnesses.

Convictions on evidence partly recorded by one Magistrate and partly by another.

CCCXXVIII. Whenever any Magistrate, after having heard part of the evidence in a case, ceases to exercise jurisdiction in such case and is succeeded by another Magistrate who has and who exercises jurisdiction in such case, such last named Magistrate may decide

the case on the evidence partly recorded by his predecessor and partly recorded by himself, or he may re-summon the witnesses and commence afresh:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses shall be re-summoned and reheard, in which case the trial shall be commenced afresh:

Provided, also, that any Court of appeal or revision, before which the case may be brought,

or, in cases tried by Magistrates subordinate to the Magistrate of the district, the Magistrate of the district, without appeal,

may set aside any conviction, passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or Magistrate is of opinion that the accused person has been materially prejudiced thereby; and may order a new trial.

Commitments on evidence partly recorded by one officer and partly by another, valid.

CCCXXIX. Whenever, from any cause, a Magistrate making an inquiry under Chapter XV. of this Act, is unable to complete the proceedings himself, any other Magistrate having jurisdiction to inquire and to commit, may complete the case and proceed as if he had recorded all the evidence himself.

When a commission may issue.

CCCXXX. Whenever it appears that the attendance of a witness cannot be procured without an amount of delay, expense, or inconvenience which under the circumstances of the case would be unreasonable, it shall be competent to a Court of Session or to a High Court to dispense with the personal attendance of such witness.

Mode of issuing commission.

Such Court of Session or High Court may direct a commission to the Magistrate of the district, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to the place where such witness is, or shall summon such witness before himself. Such Magistrate shall take the evidence of such witness in the same manner, and shall have for this purpose and may exercise the same power, as in trials of warrant cases.

Prosecutor and accused may examine witness.

The prosecutor and the accused person may forward interrogatories to which the officer to whom the commission is directed shall cause a return to be made, or the prosecutor may appear personally before the Magistrate to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

Procedure when commission is required in Magistrate's cases.

Whenever, in the course of a trial before a Magistrate, it shall appear that a commission ought to be issued for the examination of a witness whose evidence is necessary in such trial, such Magistrate shall apply to the Court of Session, to which he is subordinate, stating the reasons for the application; and such Court may either issue a commission in the manner hereinbefore provided, or may reject the application.

CHAPTER XXV.

EVIDENCE HOW TAKEN.

Examination of complainants and witnesses.

CCCXXXI. In all Criminal Courts, complainants and witnesses shall be examined upon oath or affirmation, or otherwise, according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Manner of recording evidence.

CCCXXXII. In inquiries and trials (other than summary trials) under this Act, the evidence of the witnesses shall be recorded by the Magistrate or Sessions Judge, as the case may be, in the following manner.

In summons cases and in trials of certain offences by Magistrates of the 1st and 2nd classes.

CCCXXXIII. In summons cases tried before Magistrates, and in cases of the kind referred to in Section 222 when tried by a Magistrate of the first or second class, otherwise than at a summary trial, the Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

In all other cases before Magistrates, and in all proceedings before Courts of Session.

CCCXXXIV. In all other cases before Magistrates and in all proceedings before Courts of Session, the evidence of each witness shall be taken down in writing in the language in ordinary use in the district in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate or Sessions Judge, and shall be signed by the Magistrate or Sessions Judge.

Evidence in English.

When the evidence of a witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand; and an authenticated translation of the same, in the language in ordinary use in the district in which the Court is held, shall form part of the record.

If the accused person be a European British subject, or be familiar with the English language, no translation shall be necessary.

Memorandum, when evidence not taken down in writing.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Local Government may direct evidence to be recorded by Judge or Magistrate in his own vernacular.

CCCXXXV. The local Government may direct that in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of complainants or witnesses shall be taken down by the Sessions Judge or Magistrate with his own hand in the vernacular language of the Sessions Judge or Magistrate, unless the Sessions Judge or Magistrate be prevented by any sufficient reason from taking down the evidence of any complainant or witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

Or in English, or in language in ordinary use in district.

Provided that, if the vernacular language of the Sessions Judge or Magistrate be not English or the language in ordinary use in the district in which the Court is held, the local Government may direct him to take down the evidence in the English language, or in the language in ordinary use in the district in which the Court is held, instead of his own vernacular.

In cases under Sec. 333, Magistrate may record as provided in Sec. 334 or Sec. 335.

CCCXXXVI. In cases of the kind referred to in Section 333, tried before Magistrates, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in Section 334, or if, within the jurisdiction of such Magistrate, the local Government has made the order referred to in Section 335, in the manner provided in Section 335.

Local Government to decide what language is to be held to be in ordinary use.

CCCXXXVII. The local Government may determine what, for the purposes of this Act, shall be held to be the language in ordinary use in any district in which a Court is held.

Form of record of evidence.

CCCXXXVIII. The evidence taken under Section 334 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

It shall be in the discretion of the Magistrate or Sessions Judge to take down, or cause to be taken down, any particular question and answer, if there appears any special reason for so doing, or if any person who is a prosecutor or a person accused, or his counsel or agent, requires it.

Procedure in regard to the evidence when completed.

CCCXXXIX. As the evidence of each witness, taken under Section 334, is completed, it shall be read over to the witness in the presence of the accused person, if in attendance, or of his agent, when his personal attendance is dispensed with and he appears by agent, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his agent.

CCCXL. In all cases whatever, when the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court in a language understood by him, where he is present in person.

If he appears by agent, and the evidence is given in a language other than the language in ordinary use in the district in which the Court is held, it shall be interpreted to such agent in that language.

In cases in which documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Remarks respecting demeanour of witness.

CCCXLI. Every Sessions Judge or Magistrate recording the evidence of a witness, shall record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Of the Examination of Accused Persons.

Accused may be questioned.

CCCXLII. In all inquiries and trials a Criminal Court may from time to time, and at any stage of the proceedings,

put any questions to the accused person which such Court may think proper.

Accused not punishable for refusal to answer.

CCCXLIII. The accused person shall not be liable to any punishment for refusing to answer, or for answering falsely, questions asked under Section 342, but the Court shall draw such inferences as seems just from such refusal.

No influence to be used to induce disclosures.

CCCXLIV. Except as is provided in Section 347, no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Accused not to be sworn.

CCCXLV. No oath or affirmation shall be administered to the accused person.

Examination of accused how recorded.

CCCXLVI. Whenever an accused person is examined, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate or Sessions Judge, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

In cases in which the examination of the accused person is not recorded by the Magistrate or Sessions Judge himself, he shall be bound, as the examination proceeds, to make a memorandum thereof in the vernacular of the district, or in English, if he is sufficiently acquainted

with that language; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall be annexed to the record. If the Magistrate or Sessions Judge is precluded from making a memorandum as above required, he shall record the reason of his inability to do so.

The accused person shall sign or attest by his mark such record.

If the examination be taken in the course of a preliminary inquiry, and the Court of Session find that the provisions of this section have not been fully complied with, it shall take evidence that the prisoner duly made the statement recorded: Provided that, if the error does not prejudice the prisoner, it shall not be deemed to affect the admissibility of the statement so recorded.

Magistrate may tender pardon to accomplice.

CCCXLVII. The Magistrate of the district, any Magistrate of the first class inquiring into the case, or, with the sanction of the Magistrate of the district, any Magistrate duly empowered to commit to the Court of Session, may, after recording his reason for so doing, tender a pardon to any one or more of the persons, supposed to have been directly or indirectly concerned in or privy to any offence specified in column 7 of the fourth schedule hereto annexed as triable exclusively by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section, shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

A Magistrate, having tendered a pardon under this section and examined the accused person, is precluded from trying the case himself.

High Court or Court of Session may direct tender of pardon.

CCCXLVIII. The High Court as a Court of revision, and the Court of Session after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the committing Magistrate to tender a pardon on the same condition to such person or persons.

The Court of Session, in like manner and on the same condition, may, at any time before judgment is passed, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

When Magistrate, Court of Session, or High Court, may direct commitment of person to whom pardon has been tendered.

CCCXLIX. When a pardon has been tendered under Section 347 or Section 348, if it appears to the Magistrate before the trial, or to the Court of Session before judgment has been passed, or to the High Court as a Court of reference or revision, that any person who has accepted such offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence, such Magistrate or Court may commit or direct the commit-

ment of such person for trial for the offence in respect of which the pardon was so tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

CHAPTER XXVI.

Of Securing the Attendance of Witnesses.

Procedure for obtaining attendance of witnesses.

CCCL. The following procedure shall be pursued in order to obtain the attendance of witnesses before a Magistrate or Criminal Court.

Power to summon absent witness or examine person present.

CCCLI. Any Court or Magistrate may, at any stage of any proceeding, inquiry, or trial, summon in the manner provided by Chapter XII. any witness, or examine any person in attendance though not summoned as a witness, and it shall be its or his duty to do so, if the evidence of such person appears essential to the just decision of the case.

When warrant of arrest may issue in the first instance.

CCCLII. If a Court or Magistrate has reason to believe that any witness, whose attendance is required, will not attend to give evidence without being compelled to do so, it or he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Procedure when warrant cannot be served.

CCCLIII. If such warrant cannot be executed, and the Court or Magistrate considers that the witness absconds or conceals himself for the purpose of avoiding the service thereof, it or he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of such witness's ordinary place of abode.

If the witness does not attend at the time and place named in such proclamation, the Court or Magistrate may order the attachment of any movable property belonging to such witness to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may be liable under the provisions of the following section.

Such order shall authorize the attachment of any movable property within the jurisdiction of the Court or Magistrate by whom it was made; and it shall authorize the attachment of any movable property without the jurisdiction of the said Court or Magistrate, when endorsed by the Magistrate of the district in which such property is situated.

Release of attached property of witness appearing and satisfying Court or Magistrate.

CCCLIV. If the witness appears and satisfies such Court or Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court or Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as to such Court or Magistrate seems fit.

Sale of property of witness not appearing, or not satisfying Court or Magistrate.

If such witness does not appear, or appearing, fails to satisfy the Court or Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Court or Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of Section 172 of the Indian Penal Code.

If the witness pays to such Court or Magistrate the costs and fine as aforesaid, his property shall be released from attachment.

Arrest of person disobeying summons.

CCCLV. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Court or Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal, to bring such person before him to testify as aforesaid.

Committal of person refusing to answer.

CCCLVI. If any person summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 435 or 436.

INQUIRIES.

In inquiries preliminary to commitment.

CCCLVII. In inquiries preliminary to commitment to a Court of Session or High Court, the Magistrate shall procure the attendance of the witnesses for the prosecution as in cases usually tried upon warrant; and it shall be in his discretion to summon any witness offered on behalf of the accused person to answer or disprove the evidence against him. If the Magistrate refuses to summon a witness so offered, he shall record his reasons for such refusal.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person, and, in every case, a copy of the examination of such witnesses shall be given him free of cost.

When accused person is to be committed.

CCCLVIII. In such inquiries, when the person accused is to be committed for trial, and has given in the list of witnesses mentioned in Section 200, the Magistrate shall summon the witnesses to appear before the Court before which the accused person is to be tried.

Refusal to summon unnecessary witness, unless deposit made.

CCCLIX. If the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material.

If the Magistrate be not so satisfied, he shall not be bound to summon the witness; but, in doubtful cases, he may summon such witness, if such a sum is deposited with the Magistrate as he thinks necessary to defray the expense of obtaining the attendance of the witness.

Recognizances of prosecutors and witnesses.

CCCLX. Prosecutors and witnesses for the prosecution and defence, whose attendance is necessary before the Court of Session or High Court, shall execute before the Magistrate recognizances, in the Form (F) given in the second schedule to this Act, or to the like effect, to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence as the case may be.

Detention in custody in case of refusal to attend or to execute recognizance.

If any prosecutor or witness refuses to attend before the Court of Session or High Court, or to execute the recognizace above directed, the Magistrate may detain him in custody until he executes such recognizance, or until the time when his attendance at the Court of Session or High Court is required, when the Magistrate shall send him under custody to the Court of Session or High Court.

Summons Cases.

In summons cases.

CCCLXI. In summons cases, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

Ordinarily it shall be the duty of the complainant and accused, in non-cognizable cases, to produce their own witnesses.

In such cases it shall be in the discretion of the Magistrate to summon any witnesses named by the complainant or the accused; and he may require, in such cases, a deposit of the expenses of a witness before summoning him.

Warrant Cases.

In cases tried upon warrant.

CCCLXII. In warrant cases, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall summon such of them to give evidence before him as he thinks necessary.

The Magistrate shall also, subject to the provisions of Section 359, summon any witness and examine any evidence that may be offered in behalf of the accused person to answer or disprove the evidence against him, and may for that purpose, at his discretion, adjourn the trial from time to time. If the Magistrate refuse to summon a witness named by the accused person, he shall record his reasons for such refusal, and the accused person shall be entitled to appeal to the Court of Session against such refusal.

Sessions Trials.

Right of accused as to examination and summoning of witness.

CCCLXIII. The accused person shall be allowed to examine any witness not previously named by him, if such witness be in attendance; but he shall not, except as provided in Section 448, be entitled of right to have any witness summoned, other than the witnesses named in the list delivery to the Magistrate by whom he was committed or held to bail for trial.

Procedure in case of witness refusing to answer.

CCCLXIV. If a witness before a Court of Session refuses to answer any question which is put to him, and does not offer any just excuse for such refusal, the Court may commit him to custody for such reasonable time as it deems proper, unless in the meantime he consents to be examined and to answer.

In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of Section 435 or 436.

Of Securing Documentary Evidence.

Procedure for obtaining production of document required as evidence.

CCCLXV. Whenever an officer in charge of a Police station or any Court considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, such officer or Court may issue a summons to the party in whose keeping such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

When warrant for search for documents may issue.

CCCLXVI. If there appears reason to believe that the person, to whom the summons is addressed, will not produce it as directed in the summons, such officer or Court may issue a search-warrant for the document in the first instance.

Power to impound document produced.

CCCLXVII. Any Court may, if it thinks fit, impound any document produced before it, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

CHAPTER XXVII.

Of Search-Warrants.

Search-warrant when grantable.

CCCLXVIII. When a Magistrate considers that the production of anything is essential to the conduct of an inquiry into an offence known or suspected to have been committed, or to the discovery of the offender,

or when he considers that such inquiry or discovery will be furthered by the search or inspection of any house or place,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any house or place within the jurisdiction of the Magistrate of the district.

The Magistrate issuing such warrant may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the house, place, or part so specified.

Procedure as to letter in custody of Postal Department.

CCCLXIX. The last preceding section shall not authorize any Magistrate, other than the Magistrate of the district, to grant a search-warrant for a letter in the custody of the Postal Department;

but if any such letter is wanted for the purpose of any criminal

proceeding, any Magistrate or District Superintendent of Police may give notice to the Postal authorities to cause search to be made for and to detain any such letter, pending the orders of the Magistrate of the district, and the Magistrate of the district may, if he thinks fit, direct the Postal authorities to deliver up any such letter.

Direction of search-warrant.

CCCLXX. A search-warrant shall ordinarily be directed to a Police Officer; but the Magistrate issuing the warrant may, after recording his reason, if immediate search is necessary and no Police Officer be immediately available, direct it to any other person.

Warrant to Police Officer may be executed by his subordinate.

CCCLXXI. A search-warrant directed or endorsed to a Police Officer may, if he is not able to proceed in person, be executed by any other Police Officer.

Endorsement.

In such case the name of such Police Officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

Execution of search-warrant out of district in which issued.

CCCLXXII. When it is necessary for a search-warrant to be executed out of the district in which it was issued, any Magistrate, within whose local jurisdiction the warrant is to be executed, shall endorse his name thereon.

Such endorsement shall be sufficient authority for the Police Officer charged with the execution of the warrant to execute the same within the said jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose local jurisdiction the search is to be made, and he shall thereupon endorse his name on such warrant, and enforce its execution in the same manner as if it had been issued by himself.

Search-warrant may, on emergency, be executed without endorsement.

CCCLXXIII. Whenever there is reason to believe that the delay, occasioned by obtaining the endorsement of the Magistrate in whose district the warrant is to be executed, will prevent the discovery of the thing for which search is to be made, the Police Officer charged with the execution of the warrant may execute the same in any place beyond the district in which it was issued, without the endorsement of the Magistrate in whose local jurisdiction that place is situate.

Thing found to be taken to Magistrate within whose jurisdiction it is found.

If the thing, for which search is made, is found in such place, it shall, when the place where the thing is found is nearer to the Magistrate having jurisdiction in such place than to the Magistrate who issued the warrant, be immediately taken before the Magistrate in whose local jurisdiction it is found; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Order thereon.

If the thing be not found after such search, the Police Officer making the same shall, in addition to the return made to the Magistrate who issued the warrant, report the fact to the Magistrate in whose local jurisdiction the search was made.

Procedure in such cases within Presidency town.

CCCLXXIV. If the thing searched for be found within a Presidency town, it shall be taken to the Commissioner of Police or to a Police Magistrate; and such Commissioner or Magistrate shall act in the manner prescribed in Section 373.

Magistrate may issue search-warrant to be executed in jurisdiction of another Magistrate.

CCCLXXV. Whenever it appears necessary, a Magistrate may, by his warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose local jurisdiction the house or place to be searched is situate, or if the house or place be situate within a Presidency town, he shall inform the Commissioner of Police, of the issue of such warrant.

Magistrate may send search-warrant by post to Magistrate of another district or division of district.

CCCLXXVI. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the district, or out of his own division, may direct the warrant to any Magistrate within whose local jurisdiction such house or place is situate, and may send the same by post.

Endorsement and execution by such Magistrate.

On receipt of such warrant by the Magistrate to whom it is directed, he shall endorse his name thereon and enforce its execution in the same manner as if it had been originally issued by himself.

Direction of warrant to be executed in a Presidency town.

If the warrant is to be executed within a Presidency town, it shall be addressed to the Commissioner of Police or to a Police Magistrate.

In such case any property found on search made may be dealt with as provided in Sections 373 and 374.

Search of house suspected to contain stolen property or forged documents.

CCCLXXVII. If the Magistrate of the district, or a Magistrate of a division of a district, or a Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any house or place is used as a place for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or place,

he may by his warrant authorize any Police Officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such house or place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins, therein found, which he reasonably suspects to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

Magistrate may attend personally.

CCCLXXVIII. The Magistrate, by whom a search-warrant is issued, may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may direct search in his presence.

The Magistrate may also direct a search to be made in his presence, of any house or place for the search of which he is competent to issue a search-warrant.

Search by officer in charge of Police station.

CCCLXXIX. Whenever an officer in charge of a Police station, or a Police Officer making an investigation, considers that the production of anything is necessary to the conduct of an investigation into any offence which he is authorized to investigate, he may search or cause search to be made for the same, in any house or place within the limits of the station of which he is in charge or to which he is attached.

In such case, the officer in charge of the Police station or Police Officer making investigation shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, the officer in charge of the Police station, or Police Officer making investigation, may require any officer subordinate to him to make the search; and he shall deliver to such subordinate officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and such subordinate officer may thereupon search for such property in such house or place.

The provisions of Sections 382 to 385 (both inclusive), relating to search-warrants, shall be applicable to a search made under this section by or under the direction of an officer in charge of a Police station or by a Police Officer making an investigation.

When officer of Police station may require another to issue search-warrant.

CCCLXXX. An officer in charge of a Police station may require an officer in charge of another Police station, whether subordinate to the same Magistrate as himself or to a Magistrate of another district, to cause a search to be made in any house or place in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of Section 379, and shall forward the thing found, if any, to the officer at whose request the search was made.

Inspection of weights and measures.

CCCLXXXI. An officer in charge of a Police station may, without a warrant, enter any shop or premises within the limits of such station for the purpose of inspecting or searching for any weights or measures, or instruments for weighing used or kept therein, whenever he has reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false.

If such officer finds in such shop or premises any weights, measures, or instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Persons in charge of closed house to allow search.

CCCLXXXII. Whenever any house or place liable to search or inspection under this chapter is closed, any person residing in or being in charge of such house or place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

CCCLXXXIII. A Police Officer, or other person, authorized by a warrant to search any house or place, may break open any outer or inner door or window of such house or place, in order to execute the warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking of zenana.

CCCLXXXIV. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall give notice to such woman in such apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such appartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

Search to be made in presence of witnesses.

CCCLXXXV. Before conducting a search under this chapter, the officer conducting it shall call upon two or more respectable inhabitants of the place in which the house or places to be searched is situate, to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witness, unless specially summoned by him.

Occupant of place searched may attend.

The occupant of the house or place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Mode of searching women.

CCCLXXXVI. Whenever it is necessary to cause a woman to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

Search of arrested persons.

CCCLXXXVII. Whenever a person is arrested by the Police under a warrant which does not provide for the taking of bail,

or under a warrant which provides for the taking of bail, but the arrested person cannot furnish bail,

or is arrested without warrant and is not admitted to bail,

it shall be the duty of the arresting officer to search such person and to place in safe custody all articles, other than necessary articles of apparel, found on such person.

A list of such articles shall be forwarded with the daily diary or with the final report in the case.

PART IX.

PROCEDURE INCIDENTAL TO INQUIRY AND TRIAL.

CHAPTER XXVIII.

BAIL.

When bail shall be taken.

CCCLXXXVIII. When any person appears or is brought before a Magistrate, accused of any bailable offence, he shall be admitted to bail.

Bail not to be taken for non-bailable offences.

CCCLXXXIX. When any person, accused of any non-bailable offence, appears or is brought before a Magistrate, such person shall not be admitted to bail if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail may be taken in such cases.

If the evidence, given in support of the accusation, is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person,

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate in either of such cases to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

Power to direct admission to bail.

CCCXC. The Court of Session may in any case, whether there be an appeal on conviction or not, direct that an accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

Recognizance of accused and sureties.

CCCXCI. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance and shall continue to attend until otherwise directed by the Court, and, if required, shall appear when called upon at the Court of Session or other Court, as the case may be, to answer the charge.

Insufficient bail.

CCCXCII. If through mistake or fraud insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to give sufficient bail or to find sufficient sureties, and, in default, may be committed to prison.

Bail may be taken at any time before conviction.

CCCXCIII. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Discharge on bail.

CCCXCIV. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some prison

or other place of confinement, shall issue warrant of release to the jailor or other person having him in his custody, and such jailor or other person shall thereupon release him.

Discharge of sureties.

CCCXCV. Any one or more of the sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizance of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

Procedure to compel payment of penalty by accused.

CCCXCVI. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by issuing a warrant for the attachment and sale of the movable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the district. Such warrant may be executed within the jurisdiction of the Magistrate of the district, and it shall authorize the distress and sale of any movable property belonging to the accused person without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the district in which such movable property is situated.

Procedure to compel payment of penalty by sureties.

CCCXCVII. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid.

If such penalty be not paid and if no sufficient cause for its non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any movable property belonging to him or them which may be found within the jurisdiction of the Magistrate of the district. Such warrant may be executed within the jurisdiction of the Magistrate of the district; and it shall authorize the distress and sale of any movable property belonging to the surety or sureties without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the district in which such movable property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the civil jail, during a period not exceeding six months.

In what cases the powers given by Sections 396 and 397 may be exercised.

CCCXCVIII. The powers given by Sections 396 and 397 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such

party or witness before such Court according to the conditions of such recognizance or bail:

Remission of part of penalty.

Provided that the Magistrate or Court may, at his or its discretion, remit any portion of the penalty mentioned in the recognizance of the accused person or of the surety or sureties, and enforce payment in part only:

Revision of orders.

All orders passed by any Magistrate, other than the Magistrate of the district, under this section or Section 396 or 397, shall be appealable to the Magistrate of the District, or, if not so appealed, may be revised by him.

High Court or Court of Session may direct Magistrate to levy sum forfeited.

A High Court or a Court of Session may direct any Magistrate to levy the amount due on a forfeited bail-bond executed in respect of attendance before such High Court or Court of Session.

Deposit may be made instead of bail.

CCCXCIX. When any person is required by any officer or Criminal Court to give bail, except in cases coming under Chapter XXXVIII., such officer or Court may permit such person to deposit a sum of money, or Government promissory notes, to such amount as it may fix in lieu of such bail.

CHAPTER XXIX.

Formation of Lists of Jurors and Assessors, and their Attendance.

List of jurors and assessors.

CCCC. The Sessions Judge and the Collector of the district, or such other officer as the local Government from time to time appoints in this behalf, shall prepare and make out, in alphabetical order, a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the local Government thinks fit to direct, who are, in the judgment of the Sessions Judge and Collector or other officer as aforesaid, qualified from their education and character to serve as jurors or as assessors respectively.

The list shall contain the name, place of abode, and quality or business of every such person, and if the person is a European or an American, the list shall mention the race to which he belongs.

Publication of list.

CCCCI. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the Court-house of the Magistrate of the district and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside.

To every such copy shall be subjoined a notice, stating that objections to the list will be heard and determined by the Sessions Judge and Collector or other officer as aforesaid at the Sessions Court-house, and at a time to be mentioned in the notice.

Revision of list.

CCCCII. For the hearing of such objections the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of

any person not suitable in their judgment to serve as a juror or an assessor, or who may avail himself of the exemption from service given by Section 406, and insert the name of any person omitted from the list whom they deem qualified for such service.

In the event of a difference of opinion between the Collector or other officer as aforesaid and the Sessions Judge, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector, or other officer as aforesaid, and sent to the Court of Session.

Any order of the Sessions Judge and Collector, or other officer as aforesaid, in preparing and revising the list, shall be final.

Annual revision of list.

CCCCIII. The list so prepared and revised shall be again revised once in every year.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors and assessors.

CCCCIV. All male persons between the ages of 21 and 60, resident within the local limits of the jurisdiction of the Court of Session, except those hereinafter mentioned, shall be deemed capable of serving as jurors and assessors, and shall be liable to be summoned accordingly.

Disqualifications.

CCCCV. The following persons are incapable of serving as jurors or as assessors, namely :—

Persons who hold any office in or under the said Court.

Persons executing any duties of Police, or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence, which, in the judgment of the Sessions Judge and Collector, renders them unfit to serve on the jury.

Persons afflicted with any infirmity of body or mind sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

CCCCVI. The following persons are exempt from the liability to serve as jurors or as assessors, namely :—

All officers in civil employ superior in rank to a Magistrate of the district.

Judges and other judicial officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the revenue, whom the Collector thinks fit to exempt on the ground of official duty.

Chaplains and others employed in religious offices.

All persons in the military service, except when, by any law in force for the time being, such persons are specially made liable to serve.

Surgeons, and others who openly and constantly practise in the profession of physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as priests in their respective religions.

All persons exempted by the local Government; and persons exempted by Government from personal appearance in Court under the provisions of the Code of Civil Procedure, Section 22.

Person exempted may waive his right of exemption.

The exemption from service given by this section is a right of which each person exempted may avail himself or not.

Nothing contained in this section shall be construed to disqualify any such person, if he is willing to serve as a juror or as an assessor.

The Sessions Judge may issue a summons to any exempted person to serve as an assessor or juror on the trial of a European British subject.

Court to summon jurors.

CCCCVII. The Court of Sessions shall ordinarily, three days at the least before the time fixed for the holding of the sessions, send a precept to a Magistrate directing him to summon as many persons, named in the said revised list, as seem to the Court to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any case about to be tried at such sessions.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them; the names so drawn shall be specified in the precept to the Magistrate.

Summoning and empanneling jurors under Section 234.

CCCCVIII. When a trial is to be held, in which the accused person or one of the accused persons is entitled to be tried by a jury constituted under the provisions of Section 234, the Court of Session shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinafter prescribed, as many European and American jurors as are required for the trial, if there be so many on the jury list of the district in which the trial is to be held.

The Court shall also, at the same time, in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been already summoned for jury trials at that session.

From the whole number of persons returned, the jurors, who are to constitute the jury, shall be taken by lot in the manner prescribed in Section 240, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as possible, has been obtained.

If a jury containing the requisite number of Europeans and Americans is not obtained, the accused person may elect to be tried by the Judge with the aid of assessors; otherwise he shall be tried by the jury obtained by the means aforesaid.

Form and service of summons.

CCCCIX. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor at a time and place to be therein specified.

The summons or a copy thereof shall be served on every juror or assessor personally.

If the juror or assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

Power to summon another set of jurors or assessors.

CCCCX. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in Section 407, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever it is found to be necessary.

Service of summons on officer of Government.

CCCCXI. If any person summoned to serve as a juror or assessor be in the service of Government or of a Railway Company, the summons shall be sent to him through the head officer of the office in which he is employed; and the Court may excuse the attendance of such person, if it appear, on the representation of such head officer, that the person summoned cannot serve as a juror or assessor without inconvenience to the public service.

Court may excuse attendance of juror or assessor.

CCCCXII. The Court of Session may excuse any juror or assessor from attendance for reasonable cause.

List of jurors or assessors attending.

CCCCXIII. At each session the Court shall cause to be made a list of the names of those who serve as jurors or assessors at such session.

Such list shall be kept with the revised list of the jurors and assessors prepared under Section 402.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

CCCCXIV. Any person summoned to attend as a juror or as an assessor, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable by order of the Court of Session to a fine not exceeding 100 rupees.

Such fine shall be levied by the Magistrate of the district, by attachment and sale of any movable property belonging to such juror or assessor within the jurisdiction of the Sessions Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may be imprisoned in the civil jail for the space of fifteen days, if the fine be not sooner paid.

CHAPTER XXX.

Miscellaneous Provisions.

Procedure by Police upon seizure of stolen property.

CCCCXV. The seizure by any Police Officer of property alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of such property as he thinks proper.

Sale of perishable property.

If such property is of a perishable nature, or if it appears to the Magistrate that its sale would be for the benefit of the owner, such Magistrate may at any time direct it to be sold, and shall hold the proceeds of such sale

in trust for the owner, subject to the provisions contained in Sections 416 and 417.

Procedure, where owner of property seized is unknown.

CCCCXVI. When the owner of any such property is unknown, the Magistrate may detain it or the proceeds thereof, if sold; and, in case of such detention, shall issue a proclamation, specifying the articles of which such property consists or consisted, and requiring any person, who may have a claim thereto or to the proceeds thereof, to appear before him and establish his claim within six months from the date of such proclamation.

Procedure if no claimant shall appear within six months.

CCCCXVII. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the district, or a Magistrate of a division of a district, or, if duly authorized, a Magistrate of the first class; or, if it has been already sold by the Magistrate, the proceeds thereof shall be at the disposal of the Government.

An appeal shall be allowed to the Court, to which appeals against sentences would lie, in the case of every order passed under this section.

Order for disposal of property regarding which offence committed.

CCCCXVIII. When the trial in any Criminal Court is concluded, the Court may make such order as appears right for the disposal of any property produced before it, regarding which any offence appears to have been committed.

Stay of such order.

CCCCXIX. Any Court of appeal, reference, or revision, may direct any such order passed by a Court subordinate thereto to be stayed, and may modify, alter, or annul it.

Order may take form of reference to Magistrate of district.

CCCCXX. The order, passed by any Court under Section 418 or 419, may be in the form of a reference of the property to the Magistrate of the district, or to a Magistrate of a division of a district, who shall in such cases deal with it as if the property had been seized by the Police and the seizure had been reported to him in the manner hereinbefore mentioned.

Expenses of complainants and witnesses.

CCCCXXI. Subject to any rules that may be passed by the local Government, with the previous sanction of the Governor-General of India in Council, the Criminal Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Interpreter to be bound to interpret truthfully.

CCCCXXII. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

CHAPTER XXXI.

LUNATICS.

Procedure in case of accused being lunatic.

CCCCXXIII. When any person, charged with an offence before a Magistrate competent to try the case, appears to such Magistrate to be of unsound mind and incapable of making a defence, such Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the district, or some other medical officer, and thereupon shall examine such Civil Surgeon or other medical officer, as a witness, and shall reduce the examination into writing.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

When an accused appears to have been insane.

CCCCXXIV. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, such accused person shall, if he appears to be sane at the time of inquiry, be sent for trial by the Magistrate before the Court of Session.

If such accused person is a European British subject, the Magistrate shall follow the procedure prescribed in Chapter VII.

If an accused person appears to be insane at the time of inquiry, the Magistrate shall act in the manner provided in the last preceding section.

Procedure in case of person committed before a Court of Session being lunatic.

CCCCXXV. If any person, committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence; and thereupon the trial shall be postponed.

Release of lunatic pending investigation or trial.

CCCCXXVI. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence of which such person is accused be bailable, may release such person on sufficient security being given, that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

Custody of lunatic.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the local Government to which the case shall be reported shall direct.

Resumption of inquiry or trial.

CCCCXXVII. Whenever an inquiry or trial is postponed under Section 423 or Section 425, the Magistrate or Court of Session, as the case may be, may at any time resume the inquiry or trial, and require the accused

person, if detained in custody, to be brought before such Magistrate or Court; or, if the accused person has been released on security, may require his appearance.

The surety of such person shall be bound, at any time, to produce him to any officer whom the Magistrate or Court of Session appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector-General of Prisons or the visitors of lunatic asylums, granted under Section 432.

Procedure on accused appearing before the Magistrate or Court of Session.

CCCCXXVIII. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it appears to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the inquiry shall proceed, or the accused person shall be put on his trial, as the case may require.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of Section 423 or Section 425.

Finding in case of acquittal on ground of being lunatic.

CCCCXXIX. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

Person so acquitted to be kept in safe custody.

CCCCXXX. Whenever such finding states that the accused person committed the act charged, the Magistrate or Court of Session, before whom the trial was held, shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session seems fit, and shall report the case for the order of the local Government.

The local Government may order such person to be kept in safe custody in a lunatic asylum or other suitable place of safe custody.

Lunatic prisoners to be visited by Inspector-General or visitors.

CCCCXXXI. When any person is confined under the provisions of Section 426 or Section 430, the Inspector-General of Prisons, if such person is confined in a jail, or the visitors of the lunatic asylums, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General or by two of such visitors as aforesaid; and such Inspector-General or visitors shall make a special report to the local Government as to the state of mind of such person.

Procedure where lunatic prisoner is reported capable of making his defence.

CCCCXXXII. If such person is confined under Section 426 and such Inspector-General or visitors as aforesaid shall certify, that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session

appoints; and such Magistrate or Court shall deal with such person under the provisions of Section 428; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under Section 430 is declared capable of being discharged.

CCCCXXXIII. If such person is confined under the provisions of Section 430, and such Inspector-General or visitors as aforesaid certify that in his or their judgment he may be discharged without danger of his doing injury to himself or to any other person, the local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and may appoint a commission, consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers, whereof the chief medical officer attached to the lunatic asylum shall be one.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the local Government, who may order his discharge or detention as to it may seem fit.

Delivery of lunatic to care of relative.

CCCCXXXIV. Whenever any relative or friend of any person detained under the provisions of Section 430 is desirous that he shall be delivered over to his care and custody, the local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that such person may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the local Government appoints, and at such times as such Government directs.

The provisions of Sections 431 and 433 shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector-General of Prisons, or the visitors of lunatic asylums under the said sections.

CHAPTER XXXII.

Contempts of Court.

Procedure in certain cases of contempt.

CCCCXXXV. When any such offence as is described in Sections 175, 178, 179, 180, or 228 of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender, whether he be a European British subject or not, to be detained in custody; and, at any time before the rising of the Court on the same day, may take cognizance of the offence; and adjudge the offender to punishment by fine not exceeding two hundred rupees, and in default of payment, by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid.

In every such case the Court shall record the facts constituting the offence, with any statement the offender may make, as well as the finding and sentence.

If the offence is under Section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which such public servant was sitting, and the nature of the interruption or insult offered.

Procedure where Court considers that accused should be imprisoned or fined more than 200 rupees.

CCCCXXXVI. If the Court, in any case, considers that a person accused of any such offence, should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding 200 rupees should be imposed upon him, such Court, after recording the facts constituting the offence, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Magistrate of the first class who is a Justice of the Peace and a European British subject; and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or, if sufficient bail be not tendered, shall cause such person to be forwarded under custody to such Magistrate.

If the case be forwarded to a Magistrate, he shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate; and such Magistrate may adjuge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

If, in the case of a European British subject, the Magistrate to whom he is forwarded considers the offence to require a more severe punishment than he is competent to award under Chapter VII. of this Act, he may commit the offender to the Sessions Court.

In no case tried under this section shall any Magistrate adjudge imprisonment, or a fine exceeding 200 rupees, for any contempt committed in his own presence against his own Court.

Discharge of offender on submission or apology.

CCCCXXXVII. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate for trial for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Procedure when offender is a European British subject.

CCCCXXXVIII. When any such offence as is described in Chapter X. of the Indian Penal Code, (except Sections 175, 178, 179, 180, and 228,) is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate of the first class who is a Justice of the Peace and a European British subject; and such Magistrate may deal with the offender on conviction in the same manner as is provided in that behalf in Section 74.

If such Magistrate considers the offence to require a more severe punishment than he is competent to award under the said Section, he may commit the offender to the Sessions Court.

PART X.

CHARGE, JUDGMENT, AND SENTENCE.

CHAPTER XXXIII.

OF THE CHARGE.

FORM OF CHARGES.

Charge to state offence.

CCCCXXXIX. The charge shall state the offence with which the accused person is charged.

Specific name of offence, sufficient statement.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated, where offence has no specific name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the prisoner notice of the matter with which he is charged.

The Act and section or sections of the Act, against which the offence is said to have been committed, must be referred to in the charge.

What implied in charges.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

Language of charge.

The charge may be written either in English or in the language of the district. If not written in a language understood by the prisoner, it must be read to him in a language which he understands.

Previous conviction to be set out in charge.

If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

Illustrations.

(*a.*) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in Sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to Section 300, or that, if it did fall within exception 1, one or other of the three provisos to that exception applied to it.

(*b.*) A is charged under Section 326 of the Indian Penal Code with voluntarily causing grievous hurt to B, by means of an instrument for shooting: this is equivalent to a statement that the case was not provided for by Section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c.*) A is accused of murder, cheating, theft, extortion, adultery, or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to on the charge.

(*d.*) A is charged under Section 184 of the Indian Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place, and person.

CCCCXL. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

CCCCXLI. When the nature of the case is such that the particulars mentioned in Sections 439 and 440 do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B. a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

CCCCXLII. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

CCCCXLIII. No error, either in the way in which the offence is stated, or in the particulars required to be stated in Section 441, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged under Section 242 of the Indian Penal Code with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was in this case a material error.

(*d.*) A is charged with the murder of Khuda Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(e.) A was charged with murdering Haidar Baksh on the 20th January and Khuda Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh he was tried for the murder of Khuda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

CCCCXLIV. Any accused person may apply to the Court by which he is tried for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person, the Court shall take into account the fact that he did or did not make such an application.

Court may amend a charge.

CCCCXLV. Any Court may, either upon the application of the accused person, or upon its own motion, amend or alter any charge at any stage of the proceedings before judgment is signed, or in cases of trials before a Court of Session, before the verdict of the jury is delivered or the opinion of the assessors is expressed. Such amendment shall be read and explained to the accused person.

Court of Session how to deal with the charge.

CCCCXLVI. If a prisoner is committed to the Court of Session, either without any charge at all, or upon a charge which the Court, upon reference to the proceedings before the committing Magistrate, considers improper, the Court of Session may draw up a charge for any offence which it considers to be proved by the evidence taken before the committing Magistrate. A copy of such charge shall be given to the accused person.

When trial may proceed immediately after amendment.

CCCCXLVII. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When new trial may be directed, or trial suspended.

CCCCXLVIII. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may further adjourn the trial, to admit of the appearance of any witness, whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

Prosecutor and accused person may recall witnesses.

CCCCXLIX. In all cases of amendment or alteration of a charge, the prosecutor and accused person shall be allowed to recall and examine any witness who may have been examined.

Previous sanction to be obtained, if offence in new charge require it.

CCCCL. If the offence stated in the new charge be one for which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the new charge was based.

Effect of material error.

CCCCLI. If any Appellate Court, or the High Court in the exercise of its powers of revision, is of opinion that any person convicted of an offence was in fact misled in his defence by an error in the charge, it shall direct a new trial to be had upon a charge amended in whatever manner it thinks proper.

If such Court is of opinion that the facts of the case are such that no valid charge could be preferred against the person accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under Section 188 of the Indian Penal Code, upon a charge which omits to state that A knew that he was directed to abstain from a certain act by an order promulgated by a public servant lawfully empowered to promulgate such order. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

JOINDER OF CHARGES.

Separate charges for distinct offences.

CCCCLII. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

More offences than one of same kind may be charged within a year of each other.

CCCCLIII. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

Explanation.—Offences are said to be of the same kind under this section if they fall within the provisions of Section 455.

(I.)—Trial of more than one offence.

CCCCLIV. (I.)—If in one set of facts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

(II.)—One offence falling within two definitions.

(II.)—If a single act falls within two separate definitions of any law in force for the time being, by which offences are defined or punished, the person who does it may be charged with each of the offences so committed, but he must not receive a more severe punishment than could be awarded, by the Court which tries him, for either.

(III.)—Acts severally constituting more than one offence, but collectively coming within one definition.

(III.)—If several facts, of which one or more than one would by itself constitute an offence, form, when combined, an offence under the provisions of any law in force for the time being by which offences are defined or punished, a person who does them may be charged with every offence which he may have committed, but he must not receive for such offences, collectively, a punishment more severe than

that which might have been awarded, by the Court trying him, for any one of such offences, or for the offence formed by their combination.

Illustrations.

To paragraph (I.):—

(*a.*) A rescues B, a person in lawful custody, and causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for offences under Sections 225 and 333, Indian Penal Code.

(*b.*) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for the possession of each seal for a distinct forgery, under Section 473, Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for two offences under Section 211, Indian Penal Code.

(*d.*) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for offences under Sections 211 and 194, or 195, Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for offences under Sections 368 (read with 367) and 370, Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant engaged in suppressing the riot. A may be separately charged with, convicted of, and punished for offences under Sections 147, 325, and 152, Indian Penal Code.

(*g.*) A criminally intimidates B, C, and D at the same time. A may be separately charged with, convicted of, and punished for each of the three offences under Section 506, Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for three offences under Section 302, Indian Penal Code.

To paragraph (II.):—

(*i.*) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with and convicted of offences under Sections 426 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under Section 379 only.

(*j.*) A wrongfully strikes B with a cane. A may be separately charged with and convicted of offences under Sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under Section 323 only.

(*k.*) A wrongfully kills a buffalo worth sixty rupees, belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with and convicted of offences under Sections 429 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under Section 429 only.

(*l.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B may be separately charged with and convicted of offences under Sections 411 and 414, Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(*m.*) A uses a forged document in evidence in order to convict B, a public servant, of an offence under Section 167. A may be separately charged with and convicted of offences under Sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

To paragraph (III.):—

(*n.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged

with and convicted of offences under Sections 454 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under Section 497 only.

(o) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with and convicted of offences under Sections 323, 392, and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under Section 392 or 394 only.

(p.) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with and convicted of offences under Sections 498 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under Section 497 only.

Where it is doubtful what offence has been committed.

CCCCLV. If a single act or set of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed any such offence; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft or criminal breach of trust or cheating.

When a person is charged with one offence he can be convicted of another.

CCCCLVI. If, in the case mentioned in the last section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust or received stolen goods. He may be convicted of criminal breach of trust or receiving stolen goods, though he was not charged with it.

When offence proved included in offence charged.

CCCCLVII. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

Illustrations.

(a.) A is charged under Section 407, Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under Section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under Section 406.

(b.) A is charged with murder. He may be convicted of culpable homicide or of causing death by negligence.

What persons may be charged jointly.

CCCCLVIII. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence and another of abetment of or attempt to commit such offence, they may be charged and tried

together or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge charging both with the one theft, and B alone with the two other thefts.

Withdrawal of remaining charges on conviction on one of several charges.

CCCCLIX. In trials before a Court of Session or High Court, when more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government Pleader or other officer conducting the prosecution may, with the consent of the Court, withdraw, or the Court of its own accord may suspend, the inquiry into the remaining charge or charges.

PREVIOUS ACQUITTALS OR CONVICTIONS.

Person once convicted or acquitted not to be tried for same offence.

CCCCLX. A person, who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again on the same facts for the same offence, nor for any other offence, for which a different charge from the one made against him might have been made under Section 455, or for which he might have been convicted under Section 456.

A person, convicted or acquitted of any offence, may be afterwards tried for any offence, for which a separate charge might have been made against him on the former trial under Section 454, paragraph (I.)

A person, acquitted or convicted of any offence in respect of any act causing consequences, which, together with such act, constituted a different offence from that for which such person was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person, acquitted or convicted of any offence in respect of any facts, may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged upon the same facts either with theft as a servant, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time

when the murder was committed; he may afterwards be charged with and tried for robbery.

(*c.*) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried under Section 270 of the Indian Penal Code for malignantly doing an act likely to spread the infection of a disease dangerous to life, and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged under Section 325 with voluntarily causing grievous hurt to that person.

(*e.*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(*f.*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph (III.)

(*g.*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with and tried for robbery on the same facts.

(*h.*) A, B, and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B, and C may afterwards be charged with and tried for dacoity on the same facts.

CHAPTER XXXIV.

OF THE JUDGMENT, ORDER, AND SENTENCE.

Judgment to specify offence.

CCCCLXI. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the section of the Indian Penal Code or other law under which, he is convicted;

Judgment in the alternative.

or if it be doubtful under which of two sections, or under which of two parts of the same section such offence falls, the Court shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

When judgment is to be pronounced.

CCCCLXII. In trials with assessors, when the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court, either immediately or on some future day, of which due notice shall be given to the parties or their pleaders.

Judgment to be written in English or language of district.

CCCCLXIII. The judgment or final order shall be written by the presiding officer of the Court in English or the language of the district.

Proviso.

If the language of the Judge be not English, the judgment shall not be written in English, unless the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language.

Judgment what to contain.

CCCCLXIV. The judgment or final order shall contain the point or points for determination, the finding thereupon, and the reasons for the finding, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. When a judgment or finalorder has been so

signed, it cannot be altered or reviewed by the Court which gives such judgment or order. It shall specify the offence of which the accused person is convicted, and the punishment to which he is sentenced; or, if it be a finding of acquittal, it shall direct that he be set at liberty.

The judgment or order shall be explained to the accused person, or person affected by it; and a copy shall be given him in his own language as soon as possible.

Judgment to be translated.

The original shall be filed with the record of proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in the district, shall be incorporated in the record of the case.

In trials by jury, the Court need not state its reasons for its judgment, but shall record the heads of the charge to the jury.

If the Judge differ from the jury and determine to submit the case to the High Court, he shall record the grounds of his opinion.

Nothing herein contained shall prevent any Court from recalling any order other than a final order.

No error or defect in any judgment shall invalidate the proceedings.

CHAPTER XXXV.

PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

CCCCLXV. A complaint of an offence punishable under Chapter VI. of the Indian Penal Code, except Section 127, or punishable under Section 294A of the said Code, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor-General of India in Council, or the local Government, or some officer empowered by the Governor-General in Council to order or authorize such prosecution, or unless instituted by the Advocate-General.

Prosecution of Judges and public servants.

CCCCLXVI. A complaint of an offence committed by a public servant in his capacity as such public servant, of which any Judge or any public servant not removable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the local Government, or of some officer empowered by the local Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the local Government shall not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be one by him in the discharge of his duty, unless with the sanction of Government.

Sanction when to be given.

The sanction must be given before the commencement of the proceedings.

The local Government may limit the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial is to be held.

Power of local Government.

CCCCLXVII. A complaint of any offence described in Chapter X. of the Indian Penal Code, not falling within Section 435 or 436 of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

Prosecution for contempts of the lawful authority of public servants.

The prohibition contained in this section shall not apply to the offences described in Sections 189 and 190 of the Indian Penal Code.

CCCCLXVIII. A complaint of an offence against public justice, described in Sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211 or 228 of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Prosecution for certain offences against public justice.

CCCCLXIX. A complaint of an offence relating to documents described in Sections 463, 471, 475, or 476 of the Indian Penal Code, when the document has been given in evidence in any proceedings in any Civil or Criminal Court, shall not be entertained against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

Prosecution for certain offences relating to documents given in evidence.

CCCCLXX. The sanction referred to in Sections 467, 468, and 469, may be expressed in general terms, and need not name the accused person.

Nature of sanction necessary.

Such sanction may be given at any time, and a sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Court to amend the charge to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

Explanation.—In cases under this chapter, the report or application of the public servant or Court shall be deemed sufficient complaint.

CCCCLXXI. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for inquiring into any charge mentioned Sections in 467, 468, and 469, such Court, after making such preliminary inquiry as may be necessary, may either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Procedure in cases mentioned in Sections 467, 468, and 469.

Such Magistrate shall thereupon proceed according to law; and the Court may send the accused person in custody or take sufficient bail for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

The Magistrate receiving the case may, if he is authorized to make

transfers of cases, transfer the inquiry to some other competent Magistrate instead of completing the inquiry himself.

Power of Court of Session as to such offences committed before itself.

CCCCLXXII. A Court of Session may charge a person for any such offence committed before it, or under its own cognizance, if the offence be triable by the Court of Session exclusively, and may commit or hold to bail and try such person upon its own charge.

In such case the Court of Session shall have the same power of summoning, and causing the attendance at the trial of any witnesses for the prosecution or for the defence, as is vested in a Magistrate by this Act.

Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

Offences in contempt of Court how to be disposed of.

CCCCLXXIII. Except as provided in Sections 435, 436, and 472, no Court shall try any person for an offence committed in contempt of its own authority.

Power of Civil Courts to complete investigation and commit to Court of Session.

CCCCLXXIV. In any case triable by the Court of Session exclusively, any Civil Court, before which such offence was committed, may, instead of sending the case for inquiry to a Magistrate, complete the inquiry itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

For the purposes of an inquiry under this section, the Civil Court may exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be deemed to have been held by a Magistrate.

If a Civil Court sends a case for inquiry and commitment to a Magistrate, he is bound to receive and dispose of it; but if a Civil Court makes a commitment, it shall complete the inquiry itself.

Procedure of Civil Court in such cases.

CCCCLXXV. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinbefore provided, and shall send the same with the order of commitment and the record of the case to the Magistrate of the district, or other Magistrate of the first class; and such Magistrate shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Court may exercise all powers of Magistrate as to binding over persons to give evidence.

CCCCLXXVI. Whenever any Court of Session or Civil Court commits or holds to bail any person for trial under Sections 472 and 474 or 475, it may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

Procedure where offence triable only by Sessions Court is committed before Magistrate not empowered to commit to such Court.

CCCCLXXVII. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, he shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he thinks fit.

Prosecution for adultery.

CCCCLXXVIII. A complaint of an offence under Section 497 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

Prosecution for enticing away a married woman.

CCCCLXXIX. A complaint of an offence under Section 494 of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

PART XI.

PREVENTIVE JURISDICTION OF MAGISTRATES.

CHAPTER XXXVI.

OF THE DISPERSION OF UNLAWFUL ASSEMBLIES.

Assembly to disperse on command of Magistrate or Police Officer.

CCCCLXXX. Any Magistrate or officer in charge of a Police station may command any unlawful assembly or any assembly of five or more persons, likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Use of force to disperse.

CCCCLXXXI. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a Police station may proceed to disperse such assembly by force, and may require the assistance of any person, other than any European or native troops of Her Majesty acting as such, for the purpose of dispersing it and arresting the persons who form part of it.

Use of military force.

CCCCLXXXII. If an unlawful assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank, who is present, may cause it to be dispersed by military force.

When use of military force is not an offence.

CCCCLXXXIII. No Magistrate shall be held to commit any offence by ordering the dispersion by military force of any assembly, the dispersion of which he regards, on reasonable grounds and in good faith, as necessary to the public security.

Duty of officer commanding troops required by Magistrate to disperse assembly.

CCCCLXXXIV. When Magistrate determines to disperse an assembly by military force, he may require any officer in command of any of Her Majesty's troops, whether European or native, to disperse such assembly by such force; and it shall be the duty of every such officer to obey every such requisition in such manner as in his discretion appears proper; but in doing so he shall use as little force and do as little injury to person and property, as is consistent with dispersing the assembly and arresting and detaining such persons as he may be directed by the Magistrate to arrest and detain, or as it may be necessary to arrest and detain for the purpose of dispersing the assembly.

What acts done in obeying requisition not an offence.

CCCCLXXXV. No officer obeying any such requisition shall be held to have committed any offence by any act done by him in good faith in order to comply with it.

Acts of inferior officers and soldiers done in obedience to order not an offence.

CCCCLXXXVI. No inferior officer or private soldier shall be held to have committed any offence by any act done for the dispersion of any such assembly in obedience to any order which he was bound by the Mutiny Act or by the Indian Articles of War to obey.

Duty of Queen's Officers to suppress assembly.

COCCLXXXVII. When the public security is manifestly endangered by an unlawful assembly, and when no Magistrate can be communicated with, any commissioned officer of Her Majesty's European or native forces may disperse any such assembly by military force; and in doing so, he shall have the same protection as a Magistrate, and all officers and soldiers acting under his orders shall have the protection mentioned in Section 486; but as soon as such commissioned officer can communicate with any Magistrate, it is his duty to do so.

Sanction required to prosecutions for acts done under Sections 481, 482, 484, and 487.

CCCCLXXXVIII. No prosecution against any Magistrate, officer, or soldier for any act done under the provisions contained in Sections 481, 482, 484, and 487 shall be instituted in any Criminal Court, except with the sanction of the Government of India, or the Government of Madras or Bombay.

CHAPTER XXXVII.

Of Security for Keeping the Peace.

Personal recognizance to keep the peace in cases of conviction.

CCCCLXXXIX. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men, or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Court of Session, or Magistrate of a division of a district, or Magistrate of the first class,

and the Court or Magistrate, by which or by whom such person is convicted, or the Court or Magistrate, by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

such Court or Magistrate may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session, with a provision, that, if the same be not given, the person required to enter into the engagement shall be kept in simple imprisonment for any

time not exceeding one year, if the order be passed by a Magistrate, or three years if the order be passed by the High Court or by a Court of Session, unless, within such period, such person execute such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence when he is released on the expiration of his sentence.

Where convicting officer is not in charge of division of district nor a Magistrate of 1st class.

When any accused person is convicted of any offence specified in this section by a Magistrate neither in charge of a division of a district nor of the first class, such Magistrate, if he considers it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the district, the Magistrate of the division of the district, or to a Magistrate of the first class to whom such Magistrate is subordinate; and the Magistrate to whom the case is so reported, shall deal with the case as if the conviction had been before himself.

In any case where the order is not made at the time of signing, or by the Court which signs the judgment, the convict must be produced before the Magistrate who adds the order to enter into a personal recognizance to the original sentence.

Security to keep the peace.

CCCCXC. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Court or Magistrate empowered to require a personal recognizance may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties: with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding one year if the order be passed by the Magistrate of the district, Magistrate of a division of a district, or by a first class Magistrate, or three years if the order be passed by the High Court or by a Court of Session.

Summons to any person to show cause why he should not give bond to keep the peace.

CCCCXCI. Whenever a Magistrate of a division of a district, or a Magistrate of the first class, receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate thinks fit.

Explanation 1.—A summons, calling on a person to show cause why he should not be bound over to keep the peace, may be issued on any report or other information which appears credible and which the Magistrate believes; but the Magistrate cannot bind over a person until he has adjudicated on evidence before him.

Explanation—2. A Magistrate may re-call a summons issued under this section if he thinks proper.

Form of summons.

CCCCXCII. Such summons shall set forth the substance of the report or information on which it is issued, the amount of the bond, and the term for which it is

to be in force, and, if security is called for, the number of sureties required, and the amount in which they are to be bound respectively; and the time and place at which the person summoned is required to attend.

Explanation.—When the parties are present in Court no summons is necessary; but the person to whom a summons would have been issued must have an opportunity to show cause why he should not be bound.

Penalty of bond.

CCCCXCIII. The bond shall be in the Form (E) given in the second schedule, or to the like effect; and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

The amount in which the sureties shall be bound shall not exceed the penalty named in the bond.

Warrant of arrest.

CCCCXCIV. If the person summoned does not attend at the time and place named in the summons on the day appointed, such Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

Provided that, whenever it appears to such Magistrate, upon the report of a Police Officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate may at any time issue a warrant for his arrest.

Magistrate may dispense with personal attendance of person informed against.

CCCCXCV. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against, under Section 491, and may permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of person informed against.

CCCCXCVI. If, on the appearance of such person informed against, or of his agent, if he is permitted to appear by agent, the Magistrate is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate shall direct his discharge.

Non-compliance with order to give bond.

CCCCXCVII. If the Magistrate is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if such person fails to comply with the order, the Magistrate may order him to be kept in simple imprisonment until he furnish the same.

Time for which person may be bound to keep the peace.

CCCCXCVIII. The period for which the Magistrate may bind a person to keep the peace with or without security, shall not exceed one year.

Limit of imprisonment under Section 497.

When a person is imprisoned under Section 497, he shall not be detained by authority of the Magistrate beyond the term of one year, and shall be released whenever, within that term, he complies with the order.

Extension of time for which person may be bound.

CCCCXCIX. Whenever it appears to the Magistrate that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to

that effect and the grounds thereof, and may refer the case for the orders of the Court of Session.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize the Magistrate to extend the term for a further period not exceeding one year.

If such person fails to give a bond, with security, if required, for his keeping the peace for such further period as the Magistrate under the orders of the Court of Session directs, he may be kept in simple imprisonment for such further period, or until, within that period, he gives such bond.

Explanation.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section, if the first bond is still in force, and not under Section 491.

Discharge of recognizances.

D. The Magistrate of the district may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken by him, or by any Magistrate subordinate to him, or by his predecessor under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

DI. A surety for the peaceable conduct of another person may at any time apply to the Magistrate to be relieved from his engagement as surety.

On such application being made, the Magistrate shall issue his summons or warrant, in order that the person, for whom such surety is bound, may appear or be brought before him.

On the appearance of the person to such warrant, or on his voluntary surrender, the Magistrate shall direct the engagement of the surety to be cancelled; and shall call upon such person to give fresh security, and in default thereof, shall order him to be kept in simple imprisonment.

Recovery of penalty from principal.

DII. Whenever it is proved before the Magistrate that any recognizance or other bond taken under this chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person, bound by such recognizance or bond, to pay the penalty thereof or to show cause why it should not be paid.

If sufficient cause be not shown, and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any of the movable property belonging to the person bound by such recognizance or bond.

Such warrant may be executed within the jurisdiction of the Magistrate of the district in which it is issued; and it shall authorize the distress and sale of any movable property belonging to the person bound without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the district in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such person shall be liable to imprisonment, by order of the Magistrate, in the civil jail for a period not exceeding six months.

The penalty shall not be enforced, until the person bound has had an opportunity of showing cause and until the breach of the conditions has been proved.

The commission, or attempt to commit or abetment of any offence whatever, and whenever it may be committed, is a breach of the bond.

Proceedings under this chapter may be taken either in the district in which the breach of the peace is apprehended, or where an offence has been committed in breach of the bond, or in any district where the person it is desired to bind may be.

Recovery of penalty from surety.

DIII. Whenever it is proved before the Magistrate that any bond with a surety has been forfeited, the Magistrate may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XXXVIII.

Of Security for Good Behaviour.

When Magistrate may require security for good behaviour for six months.

DIV. Whenever it appears to the Magistrate of the district, or to a Magistrate of the first class, that any person is lurking within his jurisdiction, or that there is within his jurisdiction a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may require such security for such person's good behaviour for a period not exceeding six months, as to him may appear good and sufficient.

Binding of sentenced person.

If, in any case under this or the two following sections, the person to be bound is under sentence for an offence, he must be brought up on or after the expiration of his sentence for the purpose of being bound.

When Sessions Judge or unauthorized Magistrate thinks a person should be bound.

If a Sessions Judge or Magistrate of the second or third class considers, from evidence taken in any proceedings before him, that any person should be required to enter into a bond to be of good behaviour, he may send such person in custody to a competent Magistrate.

Powers of Magistrate of division of district, being a Magistrate of the second class, to inquire.

A Magistrate in charge of a division of a district, exercising the powers of a Magistrate of the second class, may make any inquiry necessary under this chapter, and may submit his proceedings to the Magistrate of the district, who may pass such order on them, either directing the person whose character was inquired into to furnish security or not, as he thinks fit.

When Magistrate may require security for good behaviour for one year.

DV. Whenever it appears to such Magistrate, from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of notoriously bad livelihood, or is a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

Procedure where security required for more than one year.

DVI. Whenever it appears to such Magistrate, from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year, hazardous to the community,

he shall record his opinion to that effect, with an order specifying the amount of security which should in his judgment be required from such person, as well as the number, character, and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour; and if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the Court of Session.

Proceedings to be laid before Court of Session.

DVII. If a person, required to furnish security under the provisions of the last preceding section, does not furnish the same, or offers sureties whom the Magistrate sees fit to reject, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session.

Such Court, after examining such proceeding and requiring any further information or evidence which it thinks necessary, may pass orders on the case, either confirming, modifying, or annulling the orders of such Magistrate as it thinks proper.

Court of Session may require security for period not exceeding three years.

DVIII. If the Court of Session does not think it safe to direct the immediate discharge of such person, it shall fix a period for his detention, not exceeding three years, in the event of his not giving the security required from him.

Contents of order for security.

DIX. Whenever security for good behaviour is required by the Court of Session or by a Magistrate, the amount, the security, the number and description of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order.

The security-bond shall be in the Form (G) given in the second schedule, or to the like effect.

Imprisonment in default of security.

DX. In the event of any person, required to give security under the provisions of this chapter, failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Term of imprisonment

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Imprisonment under this section may be rigorous or simple, as the Court or Magistrate in each case directs.

Release of prisoners under requisition of security.

DXI. The Magistrate of the district may at any time exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order, or that of his predecessor in office, or by the order of

any officer subordinate to him, provided he is of opinion that such person can be released without hazard to the community.

Report, if prisoner be under requisition of security by order of Court of Session.

DXII. Whenever the Magistrate of the district is of opinion that any person confined under requisition of security for good behaviour by order of a Court of Session can be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of such Court of Session.

Discharge of surety.

DXIII. A surety for the good behaviour of a person may at any time apply to a competent Magistrate to be relieved from his engagement as such surety.

On such application being made, such Magistrate shall issue his summons or warrant in order that such person may appear or be brought before him.

On the appearance of such person pursuant to such summons or warrant, or on his voluntary surrender, such Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and in default thereof shall commit him to custody.

Recovery of penalty from sureties.

DXIV. Whenever a competent Magistrate is of opinion, that, by reason of an offence proved to have been committed by a person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, such Magistrate shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

If such penalty be not paid and no sufficient cause for non-payment be shown, such Magistrate shall proceed to recover the penalty from such surety by issuing a warrant for the attachment and sale of any movable property belonging to him. Such warrant may be executed within the jurisdiction of the Magistrate of the district in which it is issued; and it shall authorize the distress and sale of any movable property, belonging to such surety, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the district in which such property is situated.

If such penalty be not paid, and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment, by order of such Magistrate, in the civil jail for a period not exceeding six months.

Issue of summons and warrant of arrest.

DXV. The provisions of Sections 492 and 494, relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, when such party is not in custody, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

Place where proceedings may be held.

Proceedings may be taken under this chapter against persons amenable to its provisions, in any district where they may be.

Manner of taking evidence under Chapter XXXVII. or this chapter.

Any evidence taken under Chapter XXXVII. or this chapter, shall be taken as in cases usually heard by a Magistrate upon summons.

Previous convictions may be proved.

Any previous conviction against the person to be bound may be proved on proceedings held under this chapter.

Sureties may be rejected on the ground of character.

DXVI. A Magistrate may refuse to accept any surety offered under this chapter on the ground that such surety is an unfit person.

Chapter not applicable to European British subjects.

DXVII. The provisions of this chapter shall not apply to European British subjects.

CHAPTER XXXIX.

LOCAL NUISANCES.

Magistrate may issue orders to prevent obstructions, danger to human life, or riots.

DXVIII. A Magistrate of the district, or a Magistrate of a division of a district, or any Magistrate specially empowered, may by a written order direct any person to abstain from a certain act, or to take certain order with certain property in his possession or under his management, whenever such Magistrate considers that such direction is likely to prevent, or tends to prevent,

obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed,

or danger to human life, health, or safety,

or a riot or an affray.

Explanatoin 1.—This section is intended to provide for cases where a speedy remedy is desirable, and where the delay, which would be occasioned by a resort to the procedure contained in Section 521 and the next following sections, would, in the opinion of the Magistrate, occasion a greater evil than that suffered by the person upon whom the order was made, or would defeat the intention of this chapter.

Explanation 2.—An order may, in cases of emergency or in cases where the circumstances do not admit of the serving of notice, be passed *ex parte*, and may in all cases be made upon such information as satisfies the Magistrate.

Explanation 3.—An order may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

Explanation 4.—Any Magistrate may re-call or alter any order made under this section by himself or by his predecessor in the same office.

Magistrate may prohibit repetition or continuance of public nuisances.

DXIX. A Magistrate of the district, or a Magistrate of a division of a district, or any Magistrate specially empowered, may enjoin any person not to repeat or continue a public nuisance, as defined in Section 268 of the Indian Penal Code or under any local or special law.

Orders not judicial proceedings.

DXX. Orders made under Sections 518 and 519 are not judicial proceedings.

Magistrate may order removal of nuisances.

DXXI. Whenever a Magistrate of the district, or a Magistrate of a division of a district, or, when empowered by the local Government in this behalf, a Magistrate of the first class, considers that any unlawful obstruction

or nuisance should be removed from any thoroughfare or public place,

or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place,

or that the construction of any building, or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public—

such Magistrate may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on him, within a time to be fixed in the order,

to remove such obstruction or nuisance,

or to suppress or remove such trade or occupation,

or to stop the construction of such building,

or to remove it,

or to alter the disposal of such substance,

or to fence such tank or well, as the case may be,

or to appear before himself or some other Magistrate of the first or second class within the time mentioned in the order, and show cause why such order should not be enforced.

Order to be a judicial proceeding.

The issue of an order under this section shall be a judicial proceeding, whether or not evidence is taken therein.

Order to be in the alternative.

Such order may be issued on a report or other information which the Magistrate believes, and shall direct the person to whom it is addressed, either to obey it or to show cause why it should not be obeyed. The order shall not be made absolute, except as is hereinafter provided, until opportunity has been given to the person affected to show cause.

Explanation.—A public place includes property belonging to the State, camping grounds, and grounds left unoccupied for sanitary and recreative purposes.

Service or notification of order.

DXXII. The order mentioned in Section 521 shall, if practicable, be served personally on the person to whom it is issued.

But if personal service is found to be impracticable, such order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

Person ordered shall obey or may claim a jury.

DXXIII. The person, to whom such order is issued, shall be bound, within the time specified in the order, to obey the same; or to appear before the Magistrate, before whom he was required by the order to appear, and show cause as aforesaid; or he may apply to such Magistrate for an order for a jury to be appointed to try whether such order is reasonable and proper.

Constitution of jury.

On receiving such application, such Magistrate shall forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant.

Suspension of order.

The execution of the order shall be suspended pending such inquiry, and the Magistrate who issued the order or before whom the applicant appears shall be guided by the decision of the jury, which shall be according to the opinion of the majority.

When order may be made absolute.

If the applicant by neglect or otherwise prevents, or if he does not claim the appointment of a jury, or if from any cause the jury so appointed do not decide and report within a reasonable time, the Magistrate may pass such order as he thinks proper, which order shall be carried out in the manner hereinafter provided.

Report of jury and order thereon.

The time within which the report is to be made shall be fixed by the Magistrate in the order for the appointment of the jury, and may, from time to time, be extended by him. When the jury have made their report, the order of the Magistrate must be founded thereon, except in cases falling under Section 528.

Attendance of jury.

DXXIV. Such Magistrate may summon so many jurors as may be necessary, and such persons shall be bound to attend and make their inquiry and report.

Any juror failing to attend or neglecting his duty as a juror, shall be liable to be dealt with under Section 174 of the Indian Penal Code.

Procedure in case of disobedience or neglect by person ordered.

DXXV. If the person, to whom the order mentioned in Section 521 is issued, appears to show cause against the same, as hereinafter provided, the Magistrate shall take evidence in the matter; but if he does not appear or does not obey the order,

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in Section 188 of the Indian Penal Code;

and the Magistrate, who issued such order, may proceed to carry it into execution at the expense of such person, and may realize such expenses, either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of such movable property of such person within or without his jurisdiction. If such property is without his jurisdiction, the order shall authorize its attachment and sale when endorsed by the Magistrate in whose jurisdiction the goods are attached.

No suit shall lie in respect of anything necessarily or reasonably done in carrying out the provisions of this section.

Procedure where jury finds Magistrate's order to be reasonable.

DXXVI. If, in a case referred to a jury, the jury find that the order of the Magistrate is reasonable and proper, as originally made, or subject to a modification which the Magistrate accepts, the Magistrate, who issued the order, or before whom cause was shown,

shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the aforesaid order, within a time to be fixed in the notice, and an intimation that, in case of disobedience, such person will be liable to the penalty provided by Section 18 of the Indian Penal Code.

If such latter order is not obeyed, the Magistrate may proceed as in Section 525.

Procedure where person ordered satisfies Magistrate that order is not reasonable.

DXXVII. If the person, to whom the order of the Magistrate under Section 421 is issued, appears and shows cause against it so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

Injunction pending inquiry by jury.

DXXVIII. If the Magistrate who issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person, to whom the order under Section 521 was issued, as is required to obviate or prevent such danger or injury, whether a jury is to be, or has been, appointed or not.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything necessarily or reasonably done for that purpose.

Saving of certain statutory provisions.

DXXIX. Nothing in this chapter shall interfere with the provisions of Section 48 of Act No. XXIV. of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), or of Section 34 of Act No. V. of 1861 (*for the regulation of Police*), or of Section 16 of Act No. VIII. of 1867 (*for the regulation of the District Police in the Presidency of Bombay*), of the Governor of Bombay in Council.

CHAPTER XL.

Possession.

Magistrate how to proceed, if any dispute concerning land, &c., is likely to cause breach of the peace.

DXXX. Whenever the Magistrate of the district, or a Magistrate of a division of a district, or Magistrate of the first class, is satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land or the boundaries of any land, or concerning any houses, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction,

such Magistrate shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by such Magistrate, and to give in a written statement of their respective claims, as respects the fact of actual possession of the subject of dispute.

Party in possession to be continued until ousted by due course of law.

Such Magistrate shall, without reference to the merits of the claims of any party to a right of possession, proceed to inquire and decide which party is in possession of the subject of dispute.

After satisfying himself upon that point, he shall issue an order declaring the party or parties to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

Explanation.—Such Magistrate may satisfy himself of the existence of a dispute likely to induce a breach of the peace from a report or other information; but the question of possession must be decided on evidence taken before him.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

DXXXI. If such Magistrate decides that neither of the parties is in possession, or is unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach it, until a competent Civil Court shall have determined the rights of the parties, or who ought to be in possession.

Disputes concerning right of use of land or water.

DXXXII. If a dispute arise concerning the right of use of any land or water, or any right of way, such Magistrate, within whose jurisdiction the subject of dispute lies, may inquire into the matter; and if it appears to him that the subject of dispute is open to the use of the public, or of any person or of any class of persons, such Magistrate may order that possession thereof shall not be taken or retained by any one to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the person claiming such possession shall obtain the decision of a competent Civil Court adjudging him to be entitled to such exclusive possession.

Provided that such Magistrate shall not pass any such order, if the matter be such that the right of use is capable of being exercised at all times of the year, unless such right has been ordinarily exercised within three months from the date of the institution of the inquiry; or, in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

Local inquiry to determine boundary dispute.

DXXXIII. Whenever a local inquiry is necessary for the purposes of this chapter, any Magistrate of the first class may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such instructions, consistent with the law for the time being in force, as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

Power to restore possession of immovable property.

DXXXIV. Whenever in any Criminal Court a person is convicted of an offence attended with criminal force, and it appears to such Court that by such criminal force any person has been dispossessed of any immovable property, the Court may order such person to be restored to possession.

No such order shall prejudice any right over such immovable property which any person may be able to show in a civil suit.

Saving of powers of Collectors and Revenue Courts.

DXXXV. Nothing in this chapter shall affect the powers of a Collector, or a person exercising the powers of a Collector or of a Revenue Court.

CHAPTER XLI.

Of the Maintenance of Wives and Families.

Order for maintenance of wives and children.

DXXXVI. If any person, having sufficient means, neglects or refuses to maintain his wife, or legitimate or illegitimate child unable to maintain himself, the Magistrate of the district, or a Magistrate of a division of a district, or a Magistrate of the first class, may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding fifty rupees in the whole, as to such Magistrate seems reasonable.

Such allowance shall be payable from the date of the order.

Enforcement of order.

If such person wilfully neglects to comply with this order, such Magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; and may order such person to be imprisoned with or without hard labor for any term not exceeding one month for each month's allowance remaining unpaid:

Proviso.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by consent.

Alteration in allowance.

DXXXVII. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of Section 536, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit, provided the total sum of rupees fifty a month be not exceeded.

Enforcement of order.

DXXXVIII. A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person; and shall be enforceable by any Magistrate in any place where the person to whom the order is addressed may be, on the Magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed.

PART XII.

MISCELLANEOUS PROVISIONS.

CHAPTER XLII.

MISCELLANEOUS.

Procedure in miscellaneous criminal cases and proceedings.

DXXXIX. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Court.

Saving of jurisdiction of Presidency Police Magistrates.

DXL. Nothing in this Act shall be held to alter or to affect the jurisdiction or procedure of the Magistrates or Commissioners of Police, or the Police in the Presidency towns, except so far as this Act expressly provides for the same.

Saving of certain pecial jurisdictions and procedures.

DXLI. Nothing in this Act shall be held to alter or affect—

(*a*) the jurisdiction or procedure of landholders specially empowered according to law in the Presidency of Bombay,

(*b*) the jurisdiction or procedure of the heads of villages in the Presidency of Fort Saint George,

(*c*) the jurisdiction or procedure of village Police Officers in the Presidency of Bombay,

(*d*) the jurisdiction or procedure of any officer duly authorized and appointed, under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in military bazars, at cantonments and stations occupied by the troops of those Presidencies respectively.

SCHEDULE. I.

ENACTMENTS REPEALED.

PART I.—STATUTE.

Year and Chapter.	TITLE.	Extent of Repeal.
53 Geo. III., cap. clv. ...	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company's Charter.	Section 105.

PART II.—ACTS.

Year and Chapter.	Title.	Extent of Repeal.
V. of 1841 ...	An Act for the greater uniformity of the process upon trials for State offences, and the amendment of such process in certain cases.	The whole.
XV. of 1843 ...	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	Sections 3—6.
XV. of 1845 ...	An Act for declaring and enacting the privileges of native officers and soldiers of the armies of the three presidencies in respect of Judicial and Revenue proceedings.	So much as has not been repealed.
XXIX. of 1845 ...	An Act to empower the Government of Bombay to appoint Joint Zillah Judges or Joint Sessions Judges.	Ditto.
VII. of 1853 ...	An Act to extend the jurisdiction of Magistrates, under the 53rd Geo. III., Cap. 155, Section 105, in cases of assaults, forcible entries, and other injuries, accompanied with force, not being felonies.	The whole Act.
X. of 1854 ...	An Act for regulating the powers of Assistants to Magistrates, and of Deputy Magistrates appointed under Act XV. of 1843.	So much as has not been repealed.
XX. of 1856 ...	An Act to make better provision for the appointment and maintenance of Police Chowkeydars in cities, towns, stations, suburbs, and bazars in the Presidency of Fort William in Bengal.	Section 58.
XXV. of 1861 ...	An Act for simplifying the procedure of the Courts of Criminal Judicature not established by Royal Charter.	So much as has not been repealed.
XVII. of 1862 ...	An Act to repeal certain Regulations and Acts relating to criminal law and procedure.	Ditto.
VI. of 1864 ...	An Act to authorize the punishment of whipping in certain cases.	Sections 8, 11, and 12.
XXVIII. of 1867 ...	An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.	The whole Act.
XXXVI. of 1867 ...	An Act to correct an error in Act No. XVII. of 1862.	Ditto.
VIII. of 1869 ...	An Act further to amend the Code of Criminal Procedure.	Ditto.
XXVII. of 1870 ...	To amend the Indian Penal Code.	Sections 16 and 17, and the two Schedules.
XIX. of 1871 ...	An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	Sections 1—6.
Bombay Act VII. of 1867.	An Act for the regulation of the District Police in the Presidency of Bombay.	Section 40.

PART III.—REGULATIONS.

Bengal Regulations.

Year and Chapter.	Title.	Extent of Repeal.
IX. of 1793 ...	A Regulation for re-enacting, with alterations and modifications, the Regulations passed by the Governor-General in Council on the 3rd December, 1790, and subsequent dates, for the apprehension and trial of persons charged with crimes or misdemeanors.	Sections 3 and 34.
IX. of 1804 ...	A Regulation for altering the denomination of the Court of Circuit and the Provincial Court of Appeal for the division of the Ceded Provinces: for the administration of justice in criminal cases, in the Conquered Provinces in the Dooab and on the right bank of the River Jumna, and in the territory ceded to the Honourable the East India Company in Bundelcund by the Peishwa.	So much as has not been repealed.
VI. of 1810 ...	A Regulation for defining the penalties to which zámindárs and others shall be subject for neglecting to give due information of robberies and for harbouring robbers.	Ditto.
XVI. of 1810 ...	A Regulation to amend the existing rules for the appointment of zillah and city Magistrates; to provide for the appointment of Joint and Assistant Magistrates; and to alter the provisions in force for the payment of fixed reward on the conviction of public offenders.	Ditto.
I. of 1811 ...	A Regulation for making more adequate provision for the punishment of persons found guilty of the offence of breaking into houses, tents, or boats; for subjecting to exemplary punishment persons receiving or purchasing plundered or stolen property; and for granting licenses to gold or silversmiths, braziers or coppersmiths, ironsmiths, pawnbrokers, retail vendors of brass or copper-wares, and pykars or itinerant dealers in second-hand articles.	Ditto.
III. of 1812 ...	A Regulation for amending some of the rules at present in force in regard to the conduct of inquiries into charges of a criminal nature, and for establishing additional provisions with a view to the more effectual apprehension of criminals.	Ditto.
VIII. of 1814 ...	A Regulation for extending the provision contained in Clause 2, Section 4, Regulation III., 1812, to cases of murder, arson, and theft.	Ditto.

BENGAL REGULATIONS,—(*continued.*)

Year and Chapter.	Title.	Extent of Repeal.
XX. of 1817 ...	A Regulation for reducing into one Regulation, with amendments and modifications, the several rules which have been passed for the guidance of darogahs and other subordinate officers of Police: for modifying the existing rules concerning the resistance or evasion of criminal process; and for requiring further aid to the Police in certain cases, from proprietors and farmers of land and their local managers, as well as from the mundals and other heads of villages.	Section 33, Clauses 1 & 2.

MADRAS REGULATIONS.

IX. of 1816 ...	A Regulation for reducing into one Regulation certain rules which have been passed regarding the office of the zillah Magistrate, for modifying and defining his powers, and for transferring the office of zillah Magistrate from the Judge to the Collector of the zillah.	Sections 3, 4, and 5.
II. of 1827 ...	A Regulation for constituting the Assistant Judges appointed under Regulation I., 1827, Joint Criminal Judges of the zillah in which they may be stationed, and for defining the extent to which the powers of Magistrate shall be exercised by subordinate Collectors.	So much as has not been repealed.
VIII. of 1827 ..	A Regulation for granting to native Judges jurisdiction in criminal cases.	Ditto.

BOMBAY REGULATIONS.

XII. of 1827 ...	A Regulation for the establishment of a system of Police throughout the zillahs subordinate to Bombay, for providing rules for its administration, and for defining the duties and powers of all Police authorities and servants.	Section 10, Clause 4; so much of Section 18 as has not been repealed; and Section 37, Clause 3.
XIII. of 1827 ...	A Regulation for defining the constitution of Courts of Criminal Justice, and the functions and proceedings thereof.	Sections, 1, 2, 3, 7, 8, 9, 14, and 15. Sections 27 and 28.
III. of 1830 ...	A Regulation rescinding Regulations VIII. and XII. of 1828, and vesting the Criminal Judges with the powers and functions of Sessions Judges.	Sections 2 and 6.
IV. of 1830 ...	A Regulation resciniding such parts of Regulation XII. of 1827 as vest the Criminal Judge with Police jurisdiction of the Magistrate and his Assistants.	Section 2.
VIII. of 1831 ...	A Regulation for modifying the jurisdiction of Sessions Judges and Judicial Commissioners.	The whole.

SCHEDULE II.

FORMS OF SUMMONS, WARRANTS, BONDS, AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*Section* 152).

To *A. B.*, of

Whereas your attendance is necessary to answer to a complaint of *(state shortly the offence complained of)*; You are hereby required to appear in person or by authorized agent, as the case may be, before the [Magistrate] of on the day of Herein fail not.

(*Signature and Seal.*)

Dated the day of

B.

FORM OF WARRANT (*Section* 159).

To *(name and designation of the person or persons who are to execute the warrant.)*

Whereas of is accused of the offence of *(state the offence:)* You are hereby directed to apprehend the said and produce him before me. Herein fail not.

(*Signature and Seal.*)

This warrant may be endorsed as follows:—

If the said shall give bail, himself in the sum of with one surety in the sum of (*or* two sureties each in the sum of) to appear before me on the day of he may be released.

(*Signature.*)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*Sections* 196, 197, *and* 303).

To Jailor of

Whereas of is charged with (*state the offence in respect of which the prisoner is charged*) and has been committed to take his trial before the Court of at

You are hereby required to receive the said into your custody, and to produce him before the said Court when so required.

(*Signature.*)

(*Office and powers.*)

Dated

D.

FORM OF WARRANT OF COMMITMENT (*Section* 303).

To Jailor of

Whereas of was convicted before me (*name and official designation*) of the offence of (*mention the offence, quoting Act and Section*) and was sentenced to (*state the punishment fully and distinctly, mentioning its nature and extent*); You are hereby required to receive the said into your custody in the said jail of together with this warrant, and there carry the aforesaid sentence into execution according to law.

(*Signature.*)

Dated the day of

E.

FORM OF BOND TO KEEP THE PEACE (*Section* 493).

Whereas I inhabitant of have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the abovesaid that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*Sections* 130 *and* 360).

I of do hereby bind myself to appear at in the Court of at o' clock on the day of next, and then and there to prosecute (*or as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

G.

FORM OF BOND FOR GOOD BEHAVIOUR (*Section* 509).

Whereas I inhabitant of have been called on to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(*Signature.*)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the abovesaid that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

SCHEDULE III.

CHARGES.

I.—CHARGES WITH ONE HEAD.

(*a.*) I [*name and office of Magistrate, &c.*] hereby charge you [*name of accused person*] as follows:—

(*b.*) That you, on or about the day of at , waged war against the Queen, and thereby committed an offence punishable under Section 121 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Penal Code, Section 121.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b.*)]

(2.) That you, on or about the day of at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under Section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 124.

(3.) That you, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 161.

(4.) That you, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under Section

On Section 304.

304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(5.) That you, on or about the day of at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under Section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 306.

(6.) That you, on or about the day of at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under Section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 325.

(7.) That you, on or about the day of at , committed robbery, an offence punishable under Section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 392.

(8.) That you, on or about the day of at , committed dacoity, an offence punishable under Section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 395.

(9.) That you, on or about the day of at did (or omitted to do, as the case may be) such conduct being contrary to the provisions of Act Section , and was known by you to be prejudicial to , and thereby committed an offence punishable under Section 166 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 166.

(10.) That you, on or about the day of at in the course of the trial of before stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under Section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 193.

In cases tried by Magistrates, substitute "within my cognizance" for "within the cognizance of the Court of Session." In (*d.*) omit "by the said Court."

II.—Charges with two or more Heads.

(*a.*) I [*name and office of Magistrate, &c.,*] hereby charge you [*name of accused person*] as follows:—

(*b.*) *First.*—That you, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under Section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Penal Code, Sections 241 *and* 242.

Secondly.—That you, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under Section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

(*c.*) and I hereby direct that you be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

On Sections 302 *and* 304.

For (*b*) *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the day of at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Sections 379 *and* 382.

For (*b.*) *First.*—That you, on or about the day of at , committed theft, and thereby committed an offence punishable under Section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the day of at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly.—That you, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly.—That you, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Alternative charges on Section 193.

For (*b*). That you, on or about the day of , at , in the course of the inquiry before , stated in evidence that " "

and that you, on or about the day of at in the course of the trial of , before stated in the evidence that " "

one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under Section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

In trials before Magistrates, substitute "within my cognizance" for "within the cognizance of the Court of Session;" and omit "by the said Court."

SCHEDULE IV.

EXPLANATORY NOTES. *1st.*—The entries in the 2nd and 6th columns of the schedule, headed respectively "offence" and "punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the 1st column.

2nd.—The term "whether bailable or not," in column 5, is to be taken in connection with the provisions of Sections 388 and 389 of this Code.

3rd.—Offences may be tried by a Court superior to the Court especially mentioned in column 7. For example, a Court of Session may try an offence entered in column 7 as triable by a Magistrate.

4th.—The words "any Magistrate," as used in column 7, shall include any Magistrate of the 1st, 2nd, or 3rd class.

5th.—In the territories in British India to which the General Regulations of Bengal, Madras, and Bombay do not extend, the powers given by this Act shall be exercised by such officers as the local Government of those territories respectively shall appoint.

6th.—The last part of the schedule, headed "offences against other laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

7th.—The direction in column 4 is meant to indicate to Magistrates the manner in which the discretion vested in them by Sections 148, 149, and 150 is commonly to be used; but it is not to affect the definition of summons cases and warrant cases given in Section 4.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.

110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence intended to be abetted.	Ditto.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to ¼ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.

CHAPTER V.—OF ABETMENT—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If the offence be punishable with death or transportation.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	Not bailable ...	Imprisonment of either description for 10 years.	By the Court by which the offence abetted is triable.
	If the offence be not committed	Ditto ...	Ditto ..	According as the offence abetted is bailable or not.	Imprisonment extending to ¼ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to ¼ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto ...	Ditto ..	Ditto ...	Imprisonment extending to ⅓ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

121	Waging or attempting to wage war, or abetting the waging of war against the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Death, or transportation for life, and forfeiture of property.	Court of Session.

121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or any shorter term, or imprisonment of either description for 10 years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ..	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto .	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in Sections 125 and 126.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of state or war in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of state or war in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 3 years and fine.	Court of Session or Magistrate of 1st class.
130	Aiding escape of, rescuing, or harbouring such prisoner, or offering any resistance to the re-capture of such prisoner.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
131	Abetting mutiny or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ..	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the 1st class.
134	Abetment of such assault, if the assault is committed.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 7 years and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, or sailor.	Ditto ...	Ditto ...	Bailable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
136	Harbouring such an officer, soldier, or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Ditto ...	Fine of 500 rupees.	Ditto.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being member of an unlawful assembly ...	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
147	Rioting	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting armed with a deadly weapon ...	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence ...	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
152	Assaulting or obstructing public servant when suppressing riot, &c.	May arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto .	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 1,000 rupees	Magistrate of the 1st or 2nd class.
155	Person for whose benefit or on whose behalf a riot takes place, not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed, not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

	Or to go armed	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the 1st class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
168	Public servant unlawfully engaging in trade	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of 1st class.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
169	Public servant unlawfully buying or bidding for property.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant	May arrest without warrant.	Warrant ...	Ditto .	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ..	Summons ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ..	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto .	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the 1st or 2nd class.

	If summons, &c., require attendance in person &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of Chapter XXXII. of this Code; or if not committed in a Court, a Magistrate of the 1st or 2nd class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the 1st or 2nd class.
	If the notice or information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—(*continued.*)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
178	Refusing oath when duly required to take oath by a public servant.	Shall not arrest without warrant.	Summons ..	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of Chapter XXXII. of this Code; or if not committed in a Court, a Magistrate of the 1st or 2nd class.
179	Being legally bound to state truth, and refusing to answer questions.	Ditto ..	Ditto ..	Ditto ..	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ...	Ditto	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ..	Warrant ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto .	Summons .	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the 1st or 2nd class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto .	Ditto ...	Ditto ...	Ditto	Ditto.

184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons ...	Bailable ..	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate of the 1st or 2nd class.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health, or safety, &c.	Ditto ..	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the 1st class.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Death, or as above	Dltto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than 7 years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto ..	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	Court of Session or Magistrate of the 1st class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such cerficate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	The same as for giving false evidence ...	Ditto.

198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
201	Causing disappearance of evideence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ...	Ditto .	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
	If punishable with less than 10 years' imprisonment.	Ditto ..	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description provided for the offence, or fine, or both.	By a Magistrate of the 1st class, or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the 1st or 2nd class.
203	Giving false information respecting an offence committed.	Ditto ..	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the 1st class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCE AGAINST PUBLIC JUSTICE—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Shall not arrest without warrant.	Warrant ..	Bailable .	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the 1st class.
209	False claim in a Court of Justice	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years, and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital, or punishable with transportation for life, or imprisonment for 7 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.

212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either discription for 5 years, and fine.	Court of Session or Magistrate of the 1st class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	Magistrate of the 1st class, or Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	Magistrate of the 1st class, or Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	Magistrate of the 1st class, or Court by which the offence is triable.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCE AGAINST PUBLIC JUSTICE—(*continued.*)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
215	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender.	Shall not arrest without warrant.	Warrant ..	Bailable ..	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st class.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the 1st class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ..	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	Magistrate of the 1st class, or Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save person from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
221	Intentional omission to apprehend, on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Court of Session or Magistrate of the 1st class.
	If with imprisonment for less than 10 years	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the 1st or 2nd class.
222	Intentional omission to apprehend, on the part of a public servant bound by law to apprehend, person under sentence of a Court of Justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.
223	Escape from confinement negligently suffered by a public servant.	Ditto ...	Summons ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	May arrest without warrant.	Warrant ...	Bailable ..	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ..	Not bailable ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
	If charged with a capital offence ..	Ditto ..	Ditto ..	Ditto .	Imprisonment of either description for 7 years, or fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If under sentence of death ...	Ditto ..	Ditto .	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
225A	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of 1st or 2nd class.
226	Unlawful return from transportation ...	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session.

227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ...	Ditto ..	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ..	Bailable ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in Chapter XXXII. of this Code.
229	Personation of a juror or assessor ...	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of 1st class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto ...	Ditto ...	Ditto	Imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto .	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
	If Queen's coin	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*continued.*)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
236	Abetting in India the counterfeiting out of British India of coin.	May arrest without warrant.	Warrant ..	Not bailable ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Court of Session.
237	Import or export of counterfeit coin knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto ..	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 5 years, and fine.	Court of Session or Magistrate of the 1st class.
240	The same with respect to the Queen's coin ...	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine, which when first possessed the deliverer did not know to be counterfeit.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate of the 1st or 2nd class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.

243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
250	Delivery to another of coin, possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of Queen's coin, possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate of the 1st or 2nd class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
255	Counterfeiting a Government stamp ...	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session or Magistrate of the 1st class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.

263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.
265	Fraudulent use of false weight or measure ...	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto	Ditto ...	Ditto ..	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the 1st or 2nd class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Shall not arrest without warrant.	Summons ...	Bailable ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the 1st or 2nd class.
273	Selling any food or drink as food and drink for man, knowing the same to be noxious.	Ditto .	Ditto ..	Ditto ...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto .	Ditto ...	Ditto ...	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
277	Defiling the water of a public spring or reservoir.	May arrrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 500 rupees	Ditto.

279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the 1st or 2nd class.
281	Exhibition of a false light, mark, or buoy ...	Dtito ...	Warrant ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water in a vessel in a such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the 1st or 2nd class.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Any Magistrate.
286	So dealing with any explosive substance ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
287	So dealing with any machinery	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Magistrate of the 1st or 2nd class.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 6 months, or fine of rupees 1,000 or both.	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Any Magistrate.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
290	Committing a public nuisance	Shall not arrest without warrant.	Summons ...	Bailable ..	Fine of 200 rupees	Any Magistrate.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ..	Ditto ..	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the 1st or 2nd class.
292	Sale, &c., of obscene books, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.
294	Obscene songs	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
294A	Keeping lottery office	Shall not arrest without warrant.	Summons ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.

296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting Life.

302	Murder	May arrest without warrant.	Warrant ...	Not bailable ...	Death, transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ...	Ditto ...	Ditto ...	Death	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, or Magistrate of the 1st class.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*continued.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot or a person intoxicated.	May arrest without warrant.	Warrant	Not bailable ...	Death, or transportation for life, or imprisonment for 10 years, and fine.	Court of Session.
306	Abetting the commission of suicide ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
307	Attempt to murder	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
308	Attempt to commit culpable homicide ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, and fine.	Magistrate of the 1st or 2nd class.
310	Being a thug	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, and fine ...	Court of Session.

Of the causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

	If the woman be quick with child ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
313	Causing miscarriage without woman's consent	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto .	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent ...	Ditto ...	Ditto ..	Ditto ..	Transportation for life, or as above ...	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ..	Ditto ..	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto .	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
317	Exposure of a child under 12 years of age by parent, or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Ditto ..	Bailable .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	Ditto ..	Ditto ..	Ditto	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Magistrate of the 1st or 2nd class.

Of Hurt.

323	Voluntarily causing hurt	Shall not arrest without warrant.	Summons ..	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.
325	Voluntarily causing grievous hurt ...	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Hurt—(continued.)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	May arrest without warrant.	Summons ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, or Magistrate of the 1st class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years, and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st class.

333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session or Magistrate of the 1st or 2nd class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Magistrate of the 1st or 2nd class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of Wrongful Restraint and Wrongful Confinement.

341	Wrongfully restraining any person ...	May arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person ...	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate of the 1st or 2nd class.
343	Wrongfully confining for three or more days	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

Of Wrongful Restraint and Wrongful Confinement—(continued.)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
344	Wrongfully confining for ten or more days ..	May arrest without warrant	Summons ..	Bailable ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the 1st or 2nd class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto ...	Ditto ..	Ditto ...	Ditto	Court of Session or Magistrate of the 1st class.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.
355	Assault or criminal force with intent to dishonor a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons .	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
356	Assault or criminal force, in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable ...	Ditto	Any Magistrate.
357	Assault or use of criminal force, in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1st year, or fine of 1,000 rupees, or both.	Ditto.
359	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery, and Forced Labor.

363	Kidnapping	May arrest without warrant.	Warrant .	Not bailable ..	Imprisonment of either description for 7 years, and fine.	Court of Session or Magistrate of the 1st class.
364	Kidnapping or abducting in order to murder	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage, or to cause her defilement, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Kidnapping, Forcible Abduction, Slavery, and Forced Labor—(continued.)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
368	Concealing or keeping in confinement a kidnapped person.	May arrest without warrant ...	Warrant ...	Not bailable ...	Punishment for kidnapping or abduction.	Court of Session.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session or Magistrate of the 1st class.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
374	Unlawful compulsory labor	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Of Rape.

376	Rape	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Of Unnatural Offences.

377	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent, or vessel ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
381	Theft by clerk or servant, of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session or Magistrate of the 1st or 2nd class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ..	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years, and fine.	Court of Session.

Of Extortion.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
384	Extortion	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the 1st or 2nd class.
385	Putting or attempting to put in fear of injury in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life	Ditto.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life.	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant ...	Not bailable ...	Rigorous imprisonment for 10 years, and fine.	Court of Session or Magistrate of the 1st class.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery ...	Ditto ..	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto .	Ditto ..	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
395	Dacoity	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session.
396	Murder in dacoity	Ditto ...	Ditto ...	Ditto ...	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ..	Ditto ...	Ditto ..	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
399	Making preparation to commit dacoity ...	Ditto ...	Ditto ..	Ditto .	Rigorous imprisonment for 10 years, and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ..	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ..	Ditto ..	Ditto ..	Rigorous imprisonment for 7 years, and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ..	Ditto .	Ditto .	Ditto	Ditto.

Of Criminal Misappropriation of Property.

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
403	Dishonest misappropriation of movable property or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the 1st or 2nd class.
	If by clerk or person employed by deceased.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust	May arrest without warrant.	Warrant ..	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the 1st class.

408	Criminal breach of trust by a clerk or servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the 1st or 2nd class.
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, or Magistrate of the 1st class.

Of the receiving of Stolen Property.

411	Dishonestly receiving stolen property knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.
412	Dishonestly receiving stolen property knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto ...
414	Assisting in concealment or disposal of stolen property knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.

Of Cheating.

417	Cheating	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.
419	Cheating by personation	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Cheating—(continued.)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the 1st class.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto .	Ditto ..	Ditto	Ditto.

Of Mischief.

426	Mischief	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant ...	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
428	Mischief by killing, poisoning, maiming, or rendering useless any animal of the value of 10 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming, or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.

Of Mischief—(continued.)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	May arrest without warrant.	Warrant ..	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
438	The mischief described in the last section when committed by fire or any explosive substance.	Ditto ..	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.

Of Criminal Trespass.

447	Criminal trespass	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.

449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, and fine.	Any Magistrate.
	If the offence is theft	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the 1st or 2nd class.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
453	Lurking house-trespass or house-breaking ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, and fine.	Magistrate of the 1st or 2nd class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the 1st or 2nd class.
	If the offence is theft	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the 1st class.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the 1st or 2nd class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.

Of Criminal Trespass—(continued.)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If the offence is theft	May arrest without warrant ...	Summons ...	Not bailable ...	Imprisonment of either description for 14 years, and fine.	Court of Session, or Magistrate of the 1st or 2nd class.
458	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the 1st class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ..	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery	Shall not arrest without warrant.	Warrant ...	Bailable .	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant.	Ditto	Ditto ..	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any public security, or to receive any money, &c.	Ditto ...	Ditto ..	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ..	Imprisonment of either description for 3 years, and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ..	Ditto ...	Ditto ...	Punishment for forgery	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Not bailable ...	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under Section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—(*continued.*)

1	2	3	4	5	6	7
Section.	OFFENCE.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under Section 467 of Indian Penal Code, or possessing with like intent any such seal, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto ...	Ditto ..	Ditto ..	Ditto	Ditto.
	If the document is a valuable security or will	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above ...	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.
					Imprisonment of either description for 7 years and fine.	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.

Of Trade and Property-Marks.

482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the 1st class.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the 1st or 2nd class.
488	Making use of any such false mark ...	Ditto ...	Ditto ...	Ditto .	Ditto	Ditto.
489	Removing, destroying, or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ..	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate of the 1st or 2nd class.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons	Bailable ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Magistrate of the 1st or 2nd class.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employé is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the lifetime of a husband or wife.	Ditto ...	Ditto ...	Bailable ..	Imprisonment of either description for 7 years, and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subquent marriage is contracted.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Ditto.

496	A person with fraudulent intention going through the ceremony of being married knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
497	Adultery	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	Court of Session, or Magistrate of the 1st class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ..	Ditto ...	Ditto ...	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the 1st or 2nd class.
506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE—(*continued.*)

1 Section.	2 OFFENCE.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If threat be to cause death or grievous hurt, &c.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, or Magistrate of the 1st class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the 1st or 2nd class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of 1st class.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ..	Ditto ...	Ditto ..	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable .	.....	According to the provisions of Section 8 of this Code.
If punishable with imprisonment for three years and upwards, but less than seven.	Ditto ...	Ditto ...	Ditto ...	... ..	
If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ...	Bailable ...	.. ..	
If punishable with fine only	Ditto ...	Ditto ..	Ditto ...	.....	

SCHEDULE V.

Acts of the Governor-General of India in Council.

Acts and Sections containing reference.	Section or Chapter of the former Code quoted.	Section or Chapter of this Code to be substituted.
XVIII of 1864, s. 19 ...	61	307
XXI of 1864, s. 2 ...	62	511
	63	519
	308	521
	309	522
	310	523
	311	525
	312	526
	313	527
	314	528
XXII of 1864, ss. 3 & 5	23	37
XIII of 1865, s. 29 ...	Chap. XIII	Chapter XXXIII
s. 35 ...	Sections 336 to 340 (both inclusive).	407, 409, 410, 411, and 412
s. 39 ...	380	287
s. 40 ..	Chap. XXVI	Chapter XXXIV
s. 41 ...	383	301
XIX of 1865, s. 9 ...	23	37
IV of 1866, s. 30 ...	Sections 336 to 340 (both inclusive).	407, 409, 410, 411, and 412
s. 33 ...	380	287
s. 34 ...	Chap. XXVI	Chapter XXXIV
s. 35 ...	385	305
XXIV of 1866, s. 11 ...	Sections 336 to 340 (both inclusive).	407, 409, 410, 411, and 412
s. 14 ...	380	287
s. 15 ..	Chap. XXVI	Chapter XXXIV
s. 16 ...	385	305
III of 1867, s. 17 ...	61	307
XV of 1867, s. 19 ...	61	307
XXII of 1867, s. 14 ...	61	307
XXIII of 1867, s. 5 ...	Sections 248 to 255 (both inclusive).	149, Chapter XVII and the provisions applicable to warrant cases.
s. 6 ...	334 and 335	405 and 406
I of 1868, s. 5 ...	61	307
VI of 1868, s. 19 ...	308	521
	and Chap. XX ...	521 to 529 (both inclusive).
s. 35 ...	61	307
XIII of 1869, s. 2 ...	198	338 and 339
	and 364	334, 335, 337, 338, 339, and 340
XVIII of 1869, s. 18, cl. (5) ...	Chap. XXII	Chapter XL
XXI of 1869, s. 30 ...	Chap. XIX	Chapter XXXVIII
VIII of 1870, s. 6 ...	61	307
	and 316	536
IX of 1871, sch. II, No. 46	Chap. XXII	Chapter XL

Acts of the Governor of Madras in Council.

III of 1864, s. 23 ...	Chap. VIII	Chapter XXVII and Sections 415 to 420 (both inclusive).
X of 1865, s. 116 ...	Chap. XX	Sections 521 to 529 (both inclusive).
I of 1866, ss. 3 and 5 .	s. 23	37
I of 1867, s. 1 ...	Chap. I	Chapter I.
VIII of 1867, s. 4 ...	ss. 68	142
	97	183
	127	377
	128	378
	129	381
	130	415

ACTS OF THE GOVERNOR OF MADRAS IN COUNCIL—(Continued.)

Acts and Sections containing reference.	Section or Chapter of the former Code quoted.	Section or Chapter of this Code to be substituted.
VIII of 1867, s. 4 ...	131	416
	132	417
	133	109 & 110
	137	117 (first clause).
	152	124
	153	125
	97	183
s. 9 ...	Chap. IV... ...	Sections 139, 140, 144, 141, 147, 142, and Chapter XII.
	Chap. V	Sections 159, 161, 163, 164, 165, 166, 91, 167, 168, 169, 170, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, and 185.
	Chap. VI	Sections 92, 94, 95, 96, 97, 98, 99, 100, 93, 101, 108, and 480.
	Chap. VII ...	Section 92, Clause sixth, latter part.
	Chap. VIII ...	Chapter XXVII and Sections 415 to 420 (both inclusive).
	Chap. IX	Sections 109, 110, 111, 114, 116, 117, first part, 89, 112, 102, 103, 379, 380, 118, 119, 120, 121, 123, 124, 125, 126, 127, 128, 129, 130 131, 132, 133, and 136.
	With the exception of Sections	
	125	385
	147	121
	148	Re-enacted in Act No. I of 1872 (Evidence Act.)
	149	
	150	
	154	126
	158	130
	160	132
	161	133
	151	123
III of 1871, s. 132 ...	Chap. XX ...	Sections 521 to 529 (both inclusive.)

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

VI of 1862, s. 18 ...	61	307
III of 1867, ss. 4 and 6	23	37
II of 1868, s. 15 ...	61	307

ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

II of 1863, s. 7 ...	61	307
VI of 1863, s. 238 ...	61	307
III of 1864, s. 6 ...	23	37
s. 80 ...	61	307
VII of 1864, s. 28 ...	Chap. VIII ...	Chapter XXVII and Sections 415 to 420 (both inclusive.)
IV of 1865, s. 4 ...	Chap. XV ...	Chapter XVI and the provisions applicable to summons cases.
II of 1866, s. 48 ...	s. 61	307
V of 1866, s. 51 ...	s. 61	307
II of 1867, s. 14 ...	s. 61	307
III of 1867, s. 17 ...	s. 61	307
V of 1867, s. 4 ...	s. 61	307
IV of 1871, s. 19 ..	Chapter XV ...	Chapter XVI and the provisions applicable to summons cases.

ACT No. XI. OF 1872.

Preamble.
1. Short title. Extent. Commencement.
2. Repeal of enactments.
3. 'Political Agent' defined. 'Native State.'
4. Exercise of powers of Governor-General in places beyond British India, and delegation thereof.
5. Notification of exercise or delegation of such powers.
6. Appointment, powers, and jurisdiction of Justices of the Peace.
7. Confirmation of existing Political Agents and Justices.
8. Extension of criminal law of British India to British subjects in Native States.
9. Liability of British subjects for offences committed in Native States.
Political Agent to certify fitness of inquiry into charge.
10. Power to direct copies of depositions and exhibits to be received in evidence.
11. Arrest and removal of persons, other than European British subjects, escaping into British India.
12. Direction and execution of warrant.
13. Political Agent may himself dispose of case, or make over person to ordinary courts for trial.
14. Requisitions for extradition by the executive of any part of British dominions, or Foreign power.
15. Power to make rules.

An Act to provide for the Trial of Offences committed in places beyond British India, and for the Extradition of Criminals.

Preamble.

Whereas by treaty, capitulation, agreement, grant, usage, sufferance, and other lawful means, the Governor-General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have from time to time been delegated to Political Agents and others acting under the authority of the Governor-General in Council; and whereas doubts have arisen how far the exercise of such power and jurisdiction, and the delegation thereof, are controlled by and dependent on the laws of British India; and whereas it is expedient to remove such doubts, and to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; It is enacted as follows:—

Short title.

I. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1872":

Extent.

It extends to the whole of British India;

to all Native Indian subjects of Her Majesty without and beyond the Indian territories under the dominion of Her Majesty; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

Commencement.

and it shall come into force on the passing thereof.

Repeal of enactments.

II. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column thereof.

'Political Agent' defined.

III. In this Act the expression 'Political Agent' means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India;

(2) any officer in British India appointed by the Governor-General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India;

'Native State.'

'Native State' means, in reference to Native Indian subjects of Her Majesty, all places without and beyond the Indian territories under the dominion of Her Majesty; and,

in reference to European British subjects, the dominions of Princes and States in India in alliance with Her Majesty.

POWERS OF BRITISH OFFICERS IN PLACES BEYOND BRITISH INDIA.

Exercise of powers of Governor-General in places beyond British India, and delegation thereof.

IV. The Governor-General in Council may exercise any power or jurisdiction, which the Governor-General in Council now has, or may at any time hereafter have, within any country or place beyond the limits of British India; and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as to the Governor-General in Council from time to time seems fit.

Notification of exercise or delegation of such powers.

V. A notification in the *Gazette of India* of the exercise by the Governor-General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof in any Court of the truth of the matters stated in the notification.

Appointment, powers, and jurisdiction of Justices of the Peace.

VI. The Governor-General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place, to be a Justice of the Peace, and every such Justice of the Peace shall have all the powers conferred on Magistrates of the first class, who are Justices of the Peace and European British subjects, by any law for the time being in force in British India relating to criminal procedure. The Governor-General in Council may direct to what Court, having jurisdiction over European British subjects, any such Justice of the Peace is to commit for trial.

Confirmation of existing Political Agents and Justices.

VII. All Political Agents and all Justices of the Peace, heretofore appointed by the Governor-General in Council or the Governor in Council of the Presidency of Fort St. George or Bombay, in any such country or place as aforesaid, shall be deemed to be and to have been appointed and to have had jurisdiction under the provisions of this Act.

Extension of criminal law of British India to British subjects in Native States.

VIII. The law relating to offences and to criminal procedure, for the time being in force in British India, shall, subject as to procedure to such modifications as the Governor-General in Council from time to time directs, extend to all British subjects, European and Native, in Native States.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

Liability of British subjects for offences committed in Native States.

IX. All British subjects, European and Native, in British India, may be dealt with, in respect of offences committed by them in any Native State, as if such offences had been committed in any place, within British India, in which any such subject may be or may be found:

Political Agent to certify fitness of inquiry into charge.

Provided that no charge as to any such offence shall be inquired into in British India, unless the Political Agent, if there be such, for the territory in which the offence is said to have been committed, certifies that, in his

opinion, the charge is one which ought to be enquired into in British India :

Provided also, that any proceedings taken against any person under this section, which would be a bar to subsequent proceedings against such person for the same offence, if such offence had been committed in British India, shall be a bar against further proceedings against him, under this Act, in respect of the same offence in any Native State.

Power to direct copies of depositions and exhibits to be received in evidence.

X. Whenever any such offence as is referred to in Section 9 is being inquired into or tried, the local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a Judicial Officer in the State, in which such offence is alleged to have been committed, shall be received as evidence by the Court holding such inquiry or trial, in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

EXTRADITION.

Arrest and removal of persons, other than European British subjects, escaping into British India.

XI. When an offence has been committed, or is supposed to have been committed, in any State against the law of such State by a person not being a European British subject, and such person escapes into, or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery, at a place in such State and to a person to be named in the warrant,

if such Political Agent thinks that the offence is one which ought to be inquired into in such State,

and if the act, said to have been done, would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the second schedule hereto, or under any other section of the said Code or any other law which may from time to time be specified by the Governor-General in Council by a notification in the Gazette.

Direction and execution of warrant.

XII. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be; and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

XIII. Such Political Agent may either dispose of the case himself, or may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed, if he is generally or specially directed to do so by the Governor-General in Council, or by the Governors in Council of the Presidency of Fort St. George or Bombay respectively.

Requisitions for extradition by the executive of any part of British dominions, or Foreign power.

XIV. Whenever a requisition is made to the Governor-General in Council or any local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or

territory, should be given up, the Governor-General in Council or such local Government, as the case may be, may issue an order to any Magistrate, who would have had jurisdiction to inquire into the offence, if it had been committed within his local jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall inquire into the truth of such accusation; and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person, and for his delivery at a place and to a person to be named in the warrant.

The provisions of Section 10 shall apply to inquiries held under this section.

This section shall not affect the provisions of any law or treaty, for the time being in force, as to the extradition of offenders; but the procedure provided by any such law or treaty shall be followed in every case to which it applies.

Power to make rules.

XV. The Governor-General in Council may make, and may from time to time alter, rules to provide for—

(1) the confinement, diet, and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant, as entitled to receive them;

(3) and generally to carry out the purposes of this Act.

SCHEDULE I.

Number and year.	Title.	Extent of Repeal.
26 Geo. III., c. 57 ...	An Act for the further regulation of the trial of persons accused of certain offences committed in the East Indies; for repealing so much of an Act, made in the twenty-fourth year of the reign of his present Majesty (intituled "An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies"), as requires the servants of the East India Company to deliver Inventories of their Estates and Effects; for rendering the Laws more effectual against persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of Deeds and Writings executed in Great Britain or India.	Section 29.

SCHEDULE I,—*Continued.*

Year and Chapter.	Title.	Extent of Repeal.
33 Geo. III, c. 52 ...	An Act for continuing in the East India Company, for a further term, the possession of the British Territories in India, together with their exclusive Trade, under certain limitations; for establishing further Regulations for the government of the said Territories, and the better Administration of Justice within the same; for appropriating to certain uses the Revenues and Profits of the said Company; and for making provision for the good order and government of the Towns of Calcutta, Madras, and Bombay.	Section 67.
Act I of 1849 ...	An Act to provide more effectually for the punishment of offences committed in Foreign States.	So much as is unrepealed.
Act VII of 1854 ...	An Act for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.	So much as is unrepealed.

SCHEDULE II.

Sections of the Indian Penal Code referred to in Section 11.

Sections 230 to 263, both inclusive; Sections 299 to 304, both inclusive; Sections 307, 310, and 311; Sections 312 to 317, both inclusive; Sections 323 to 333, both inclusive; Sections 347 and 348; Sections 360 to 373, both inclusive; Sections 375 to 377, both inclusive; Sections 378 to 414, both inclusive; Sections 435 to 440, both inclusive; Sections 443 to 446, both inclusive; Sections 464 to 468, both inclusive; Sections 471 to 477, both inclusive.

Act No. XII. of 1872.

Preamble.

1. Amendment of Section 2, Act XII. of 1870. Extent of Act. Act not to apply to Ships-of-War, &c.
2. Amendment of Section 4. "Native Passenger Ship."
3. Addition to Section 12.
4. Addition to Section 21.
5. Addition after Section 26.
6. Addition after Section 38.
7. Act to be read as part of Act XII. of 1870.

An Act to amend Act XII. of 1870 *(the Native Passenger Ships' Act).*

Preamble. Whereas it is expedient to amend Act XII. of 1870 (the Native Passenger Ships' Act); It is hereby enacted as follows:—

Amendment of Sec. 2, Act XII. of 1870. I. Instead of Section 2 of the said Act, the following shall be read:

Extent of Act. "II. This Act extends to British India, and applies also to all subjects of Her Majesty within the dominions of Princes and States in alliance with Her Majesty, and to all Native Indian subjects of Her Majesty without and beyond British India

"Nothing in this Act applies to any Ship-of-War or Transport belonging to or in the service of Her Majesty, or to any Ship-of-War belonging to any Foreign Prince or State, or to any ship under contract with the Government of any European State.

Act not to apply to Ships-of-War, &c.

"The local Government may, if it thinks fit, exempt any steamer or class of steamers, carrying not more than 60 passengers, being natives of Asia or Africa, from the operation of this Act, for any period not exceeding one year.

"Such exemption may be from time to time renewed for any period not exceeding one year."

Amendment of Section 4.

II. Instead of the last paragraph of Section 4 of the said Act, the following shall be read:

"The words 'Native Passenger Ship' mean a vessel, whether sailing or steam, carrying more than 30 passengers, being Natives of Asia or Africa; provided that no person in attendance upon another person other than a Native of India, shall be deemed a passenger for the purposes of this Section."

'Native Passenger Ship.'

Addition to Section 12.

III. After Section 12 of the said Act, the following proviso shall be added:

"Provided that, in the case of steam ships, the officer aforesaid may, if under the circumstances of the case he thinks fit, reduce the space to be appropriated to passengers in the between-decks under the requirements of this section, to a space containing at the least 9 superficial and 54 cubical feet of space for every adult passenger on board."

Addition to Section 21.

IV. After Section 21 of the said Act, the following proviso shall be added:

"Provided also that, in the case of steam ships provided with a condenser, the officer authorized in that behalf may, if under the circumstances of the case he thinks fit, reduce the amount of water to be provided under the requirements of this section to an amount not less than 4 gallons to every week of the declared duration of the voyage for every passenger on board."

Addition to Section 26.

V. After Section 26 of the said Act, the following shall be read:—

"XXVIA. Whenever a convention shall have been entered into between the Government of Her Majesty the Queen and the Turkish Government that every master of a Native Passenger Ship, leaving a Turkish port or place and bound for any port or place in British India, whether such ship be owned by a subject of Her Majesty or not, shall execute a bond binding him in a penalty to touch at Aden, and not to proceed thence without a clean bill of health, obtained in the manner provided in Section 25, any master of any such ship, whether he be a subject of Her Majesty or not, who shall come into any port or place in British India without such clean bill of health, may be taken by the officer in charge of such port or place before any Magistrate having local jurisdiction, and on proof that such master has come from a Turkish port or place, such Magistrate shall presume that such bond was duly executed by such master, and in default of production of such clean bill of health, shall presume that the penalty mentioned in such bond has been incurred; and may award the full amount or

Penalty on Master of Turkish Ship bound from Turkish to Indian port entering latter without clean bill of health in breach of convention.

any part of such penalty against such master, and, in default of payment of such penalty, may recover it as though it were a fine imposed under this Act."

Addition to Section 38.

VI. After Section 38 of the said Act, the following section shall be added as Section 39 :—

Saving of Act XXV. of 1859.

"XXXIX. Nothing in this Act shall affect the provisions of Act XXV. of 1859 (*to prevent the overcrowding of vessels carrying Native Passengers in the Bay of Bengal*)."

Act to be read as part of Act XII. of 1870.

VII. This Act shall be read as part of Act XII. of 1870.

Act No. XIII. of 1872.

Preamble.
1. Short title. Extent. Commencement.
2. Addition to Section 1 of Act XV. of 1859.
'New manufacture' defined.
3. Addition to Section 4 of this Act.
4. Addition to Act XV. of 1859, after Section 37.
Persons invested by English law with rights as to patterns and designs to have same rights in British India.

An Act to amend Act XV. of 1859.

Preamble.

Whereas, by Act XV. of 1859, provision was made for the grant of certain privileges to the inventors of new manufactures; and whereas it is desirable that provision should be made for the grant of similar privileges to the inventors of new patterns and designs in British India; It is hereby enacted as follows :—

Short title.

I. This Act may be called 'The Patterns and Designs Protection Act, 1872.'

Extent and commencement.

It extends to the whole of British India, and shall come into force on the passing thereof.

Addition to Section 1 of Act XV. of 1859.

II. At the end of Section 1 of the said Act XV. of 1859, the following shall be read :—

'New manufacture' defined.

"For the purposes of this Act, 'new manufacture' shall be deemed to include any new and original pattern or design, or the application of such pattern or design to any substance or article of manufacture."

Addition to Section 4 of the said Act.

III. At the end of Section 4 of the said Act, the following shall be read :—

"Provided that, in the case of a pattern or design, or the application thereof to any substance or article of manufacture, such privilege shall be granted for the term of 3 years and no more."

Addition to Act XV. of 1859 after Section 37.

IV. After Section 37 of the said Act, the following shall be read :—

Persons invested by English law with rights as to patterns and designs to have same rights in British India.

"XXXVIIA. Whenever, by any law for the time being in force in the United Kingdom, any person is entitled in the United Kingdom to an exclusive right in any pattern or design, or in the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design, or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of any infringement thereof in British

India, as those to which he would be entitled in the United Kingdom in respect of an infringement thereof in the United Kingdom."

Act to be read as part of Act XV. of 1859.

V. This Act shall be read with and as part of the said Act XV. of 1859.

ACT No. XIV. OF 1872.

An Act to exempt the Straits Settlements from the Indian Emigration Act, 1871.

Preamble.

Whereas it is expedient to provide for the exemption of the islands and territories known as the Straits Settlements from all or some of the provisions contained in the Indian Emigration Act, 1871; It is hereby enacted as follows:—

Power to exempt Straits Settlements from Emigration Act.

I. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, exempt emigration to, or contracts for labour to be performed in, the whole or any part of the said Settlements from all or any of the provisions contained in the Indian Emigration Act, 1871;

and may also from time to time, by like notification, revoke or alter any notification previously made under this Act.

Bar of certain proceedings.

II. No suit or other proceeding shall be maintained against any person for anything done or omitted, in respect of such emigration or contracts, before the date of the notification made under the first clause of Section 1.

ACT No. XV. OF 1872.

THE INDIAN CHRISTIAN MARRIAGE ACT, 1872.

PRELIMINARY.

1. Short title Extent. Commencement.
2. Enactments repealed.
3. Interpretation-clause.

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

4. Marriages to be solemnized according to Act.
5. Persons by whom marriages may be solemnized.
6. Grant and revocation of licenses to solemnize marriages.
7. Marriage Registrars. Senior Marriage Registrar. Magistrate when to be Marriage Registrar.
8. Marriage Registrars in Native States.
9. Licensing of persons to grant certificates of marriage between Native Christians.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

10. Time for solemnizing marriage. Exceptions.
11. Place for solemnizing marriage. Fee for special license.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Notice of intended marriage.
13. Publication of such notice. Return or transfer of notice.

14. Notice of intended marriage in private dwelling.
15. Sending copy of notice to Marriage Registrar when one party is a minor.
16. Procedure on receipt of notice.
17. Certificate of notice given and declaration made, issued. Proviso.
18. Declaration before issue of certificate.
19. Consent of father or guardian or mother when necessary.
20. Power to prohibit by notice issue of certificate.
21. Procedure on receipt of notice.
22. Issue of certificate in case of minority.
23. Issue of certificates to Native Christians.
24. Form of certificate.
25. Solemnization of marriage.
26. Certificate void if marriage not solemnized within two months.

PART IV.

Registration of Marriages Solemnized by Ministers of Religion.

27. Marriages when to be registered.
28. Registration of marriages solemnized by Clergymen of the Church of England.
29. Quarterly returns to Archdeaconry. Contents of returns.
30. Registration and returns of marriages solemnized by Clergymen of the Church of Rome.
31. Registration and returns of marriages solemnized by Clergymen of the Church of Scotland.
32. Certain marriages to be registered in duplicate.
33. Entries of such marriages to be signed and attested.
34. Certificate to be forwarded to Marriage Registrar, copied, and sent to Government.
35. Copies of certificates to be entered and numbered.
36. Registrar to add number of entry to certificate, and send to Government.
37. Registration of marriages between Native Christians under Part I. or III.
Custody and disposal of register-book.

PART V.

Marriages Solemnized by, or in the presence of, a Marriage Registrar.

38 Notice of intended marriage before Marriage Registrar.
39. Publication of notice.
40. Notice to be filed and copy entered in Marriage Notice Book.
41. Certificate of notice given and oath made. Proviso.
42. Oath or declaration to be made before issue of certificate.
43. Petition to High Court to order certificate in less than fourteen days.
Order on petition.
44. Provision as to consent of father or guardian to apply.
Protest against issue of certificate. Effect of protest.
45. Petition where person whose consent is necessary is insane, or unjustly withholds consent.
Procedure on petition.
46. Petition when Marriage Registrar refuses certificate. Procedure on petition.
47. Petition when Marriage Registrar in Native State refuses certificate.
48. Petition when Registrar doubts authority of person forbidding.
Procedure on petition.
Reference when Marriage Registrar in Native State doubts authority of person forbidding.
Procedure on reference.
49. Liability for frivolous protest against issue of certificate.
50. Form of certificate.
51. Solemnization of marriage after issue of certificate.
52. When marriage is not had within two months after notice, a new notice required.
53. Marriage Registrar may ask for particulars to be registered.
54. Registration of marriages solemnized under Part V.
55. Certificates to be sent monthly to Secretary to Government.
Custody of Register-Book.
56. Officers to whom Registrars in Native States shall send certificates.
57. Registrars to ascertain that notice and certificate are understood by Native Christians.
58. Native Christians to be made to understand declarations at marriage.
59. Registration of marriages between Native Christians.

PART VI.

Marriage of Native Christians.

60. On what conditions marriages of Native Christians may be certified.
61. Grant of certificate.
62. Register-Book to be kept.
63. Searches in Register-Book and copies of entries.
64. Books in which marriages of Native Christians under Part I. or Part III. are registered.
65. Part VI. not to apply to Roman Catholics. Saving of certain marriages.

PART VII.

Penalties.

66. False oath, notice or certificate for procuring marriage;
67. Forbiding, by fale personation, issue of certificate by Marriage Registrar;
68. Solemnizing marriage without due authority;
69. Solemnizing marriage out of proper time, or without witnesses;
Saving of marriages solemnized under special license;

70. Solemnizing, without notice or within fourteen days after notice, marriage with minor;
71. Issuing certificate, or marrying, without publication of notice;
Marrying after expiry of certificate;
Solemnizing marriage with minor within 14 days, without authority of Court, or notice;
Issuing certificate against authorized prohibition;
72. Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition;
73. Persons authorized to solemnize marriage (other than Clergymen of the Churches of England, Scotland, or Rome)
issuing certificate or marrying without publishing notice, or after expiry of certificate;
issuing certificate authorizedly forbidden;
issuing certificate for, or solemnizing marriage with minor, within fourteen days after notice;
solemnizing marriage authorizedly forbidden.
74. Unlicensed person granting certificate pretending to be licensed.
75. Destroying or falsifying Register-books.
76. Limitation of prosecutions under Act.

PART VIII.

MISCELLANEOUS.

77. What matters need not be proved in respect of marriage in accordance with Act.
78. Corrections of errors.
79. Searches and copies of entries.
80. Certified copy of entry in marriage register, &c., to be evidence.
81. Sending certificates of certain marriages to Secretary of State for India.
82. Local Government to prescribe fees.
83. Power to make rules.
84. Power to prescribe fees and rules for Native States.
85. Power to declare who shall be District Judge.
86. Power to delegate functions under this Act of Governor-General in Council.
87. Saving of consular marriages.
88. Non-validation of marriages within prohibited degrees.
SCHEDULE I.—Notice of Marriage.
SCHEDULE II.—Certificate of Receipt of Notice.
SCHEDULE III.—Form of Register of Marriages.
SCHEDULE IV.—Marriage Register Book. Certificate of Marriage.
SCHEDULE V.—Enactments repealed.

An Act to consolidate and amend the Law relating to the Solemnization in India of the Marriages of Christians.

Preamble. Whereas it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of the persons professing the Christian religion; It is hereby enacted as follows:

PRELIMINARY.

Short title. I. This Act may be called 'The Indian Christian Marriage Act, 1872:'

Extent. It extends to the whole of British India, and, so far only as regards Christian subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty;

Commencement. and it shall come into force on the passing thereof.

Enactments repealed. II. The enactments specified in the fifth schedule hereto annexed are repealed, but not so as to invalidate any marriage confirmed by, or solemnized under, any such enactment.

And all appointments made, licenses granted, consents given, certificates issued, and other things duly done under any such enactment, shall be deemed to be respectively made, granted, given, issued, and done under this Act.

For clause 24 of Section 19 of the Court Fees Act, 1870, the following shall be substituted:—

'xxiv. Petitions under the Indian Christian Marriage Act, 1872, Sections 45 and 48.'

Interpretation clause.

III. In this Act, unless there is something repugnant in the subject or context,—

'Church of England,' 'Anglican.'

'Church of England' and 'Anglican' mean and apply to the Church of England as by law established.

'Church of Scotland.'

'Church of Scotland' means the Church of Scotland as by law established;

'Church of Rome' and 'Roman Catholic.'

'Church of Rome' and 'Roman Catholic' mean and apply to the Church which regards the Pope of Rome as its spiritual head;

'Church.'

'Church' includes any chapel or other building generally used for public Christian worship;

'Minor.'

'Minor' means a person who has not completed the age of twenty-one years, and who is not a widower or a widow;

'Native State.'

'Native State' means the territories of any Native Prince or State in alliance with Her Majesty;

'Christians.'

The expression 'Christians' means persons professing the Christian religion;

'Native Christians.'

And the expression 'Native Christians' includes the Christian descendants of Natives of India converted to Christianity, as well as such converts.

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

Marriages to be solemnized according to Act.

IV. Every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Persons by whom marriages may be solemnized.

V. Marriage may be solemnized in India—

(1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of which he is a minister;

(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies, and customs of the Church of Scotland;

(3) by any Minister of religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by any person licensed under this Act to grant certificates of marriage between Native Christians.

Grant and revocation of licenses to solemnize marriages.

VI. The local Government may grant licenses to Ministers of religion to solemnize marriages within the territories under its administration, and may revoke such licenses.

Marriage Registrars.

VII. The local Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars for any district subject to its administration.

Senior Marriage Registrar.

Where there are more Marriage Registrars than one in any district, the local Government shall appoint one of them to be the Senior Marriage Registrar.

Magistrate when to be Marriage Registrar.

When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the district shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy.

Marriage Registrars in Native States.

VIII. The Governor-General in Council may, by notification in the *Gazette of India*, appoint any Christian, either by name or as holding any office for the time being, to be a Marriage Registrar in respect of any district or place within the territories of any Native Prince or State in alliance with Her Majesty.

The Governor-General in Council may, by like notification, revoke any such appointment.

Licensing of persons to grant certificates of marriage between Native Christians.

IX. The local Government or (so far as regards any Native State) the Governor-General in Council may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between Native Christians.

Any such license may be revoked by the authority by which it was granted, and every such grant or revocation shall be notified in the official Gazette.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

Time for solemnizing marriage.

X. Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening:

Exceptions.

Provided that nothing in this sectoin shall apply to—

(1) a Clergyman of the Church of England solemnizing a marriage under a special license, permitting him to do so at any hour other than between six in the morning and seven in the evening, under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or

(2) a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorized to grant such license.

Place for solemnizing marriage.

XI. No Clergyman of the Church of England shall solemnize a marriage in any place other than a church,

unless there is no church within five miles distance by the shortest road from such place,

or unless he has received a special license, authorizing him to do so, under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

Fee for special license.

For such special license, the Registrar of the Diocese may charge such additional fee as the said Bishop from time to time authorizes.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

Notice of intended marriage.

XII. Whenever a marriage is intended to be solemnized by a Minister of religion licensed to solemnize marriages under this Act—

one of the persons intending marriage shall give notice in writing, according to the form contained in the first schedule hereto annexed, or to the like effect, to the Minister of religion whom he or she desires to solemnize the marriage, and shall state therein

(*a*) the name and surname, and the profession or condition, of each of the persons intending marriage,

(*b*) the dwelling-place of each of them,

(*c*) the time during which each has dwelt there, and

(*d*) the church or private dwelling in which the marriage is to be solemnized:

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

Publication of such notice.

XIII. If the persons intending marriage desire it to be solemnized in a particular church, and if the Minister of religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church.

Return or transfer of notice.

But if he is not entitled to officiate as a Minister in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid.

Notice of intended marriage in private dwelling.

XIV. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of religion, on receiving the notice prescribed in Section 12, shall forward it to the Marriage Registrar of the district, who shall affix the same to some conspicuous place in his own office.

Sending copy of notice to Marriage Registrar when one party is a minor.

XV. When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of Section 13, send by the post or otherwise a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

Procedure on receipt of notice.

XVI. The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed.

Certificate of notice given and declaration made, issued.

XVII. Any Minister of religion, consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made:

Proviso.

Provided—

(1) that no such certificate shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister;

(2) that no lawful impediment be shown to his satisfaction why such certificate should not issue; and,

(3) that the issue of such certificate has not been forbidden in manner hereinafter mentioned by any person authorized in that behalf.

Declaration before issue of certificate.

XVIII. The certificate mentioned in Section 17 shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

(*a*) that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage,

and, when either or both of the parties is or are a minor or minors,

(*b*) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

Consent of father or guardian or mother when necessary.

XIX. The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage,

and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

Power to prohibit by notice issue of certificate.

XX. Every person whose consent to a marriage is required under Section 19 is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorized with his or her name and place of abode and position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure on receipt of notice.

XXI. If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

or until the said notice is withdrawn by the person who gave it.

Issue of certificate in case of minority.

XXII. When either of the persons intending marriage is a minor, and the Minister is not satisfied that the consent of the person whose consent to such marriage is required by Section 19 has been obtained, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

Issue of certificates to Native Christians.

XXIII. When any Native Christian about to be married takes a notice of marriage to a Minister of religion, or applies for a certificate from such Minister under Section 17, such Minister shall, before issuing the certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be translated the notice or certificate to such Native Christian into some language which he understands.

Form of certificate.

XXIV. The certificate to be issued by such Minister shall be in the form contained in the second schedule hereto annexed, or to the like effect.

Solemnization of marriage.

XXV. After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses besides the Minister.

Certificate void, if marriage not solemnized within two months.

XXVI. Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void, and no person shall proceed to solemnize the said marriage until new notice has been given, and a certificate thereof issued in manner aforesaid.

PART IV.

Registration of Marriages solemnized by Ministers of Religion.

Marriages when to be registered.

XXVII. All marriages hereafter solemnized in India between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V. or Part VI. of this Act, shall be registered in manner hereinafter prescribed.

Registration of marriages solemnized by Clergymen of the Church of England.

XXVIII. Every Clergyman of the Church of England shall keep a register of marriages, and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act.

Quarterly returns to Archdeaconry.

XXIX. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the register of marriages solemnized at any place where he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

Contents of returns

Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the

first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year, respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

The said Registrar upon receiving the said returns shall send one copy thereof to the Secretary to the local Government.

Registration and returns of marriages solemnized by Clergymen of the Church of Rome.

XXX. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly, to the Secretary to the local Government, returns of the entries of all marriages registered by him during the three months next preceding.

Registration and returns of marriages solemnized by Clergymen of the Church of Scotland.

XXXI. Every Clergyman of the Church of Scotland shall keep a register of marriages,

and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly, to the Secretary to the local Government, through the Senior Chaplain of the Church of Scotland, returns, similar to those prescribed in Section 29, of all such marriages.

Certain marriages to be registered in duplicate.

XXXII. Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of religion licensed under this Act to solemnize marriages, shall immediately, after the solemnization thereof, be registered in duplicate by the person solemnizing the same (that is to say) in a marriage register-book to be kept by him for that purpose, according to the form contained in the fourth schedule hereto annexed, and also in a certificate attached to the marriage register-book as a counterfoil.

Entries of such marriages to be signed and attested.

XXXIII. The entry of such marriage in both the certificate and marriage register-book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage register-book.

Certificate to be forwarded to Marriage Registrar, copied, and sent to Government.

XXXIV. The person solemnizing the marriage shall forthwith separate the certificate from the marriage register-book, and send it, within one month from the time of the solemnization, to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the local Government.

Copies of certificates to be entered and numbered.

XXXV. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which he receives each certificate.

Registrar to add number of entry to certificate, and send to Government.

XXXVI. The Marriage Registrar shall also add such last mentioned number of the entry of the copy in the book to the certificate, with his signature or initials, and shall, at the end of every month, send the same to the Secretary to the local Government.

Registration of marriages between Native Christians under Part I. or III.

XXXVII. When any marriage between Native Christians is solemnized under Part I. or Part III. of this Act, the person solemnizing the same shall, instead of proceeding in the manner provided by Sections 28 to 36, both inclusive, register the marriage in a separate register-book, and shall keep it safely until it is filled, or, if he leave the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Custody and disposal of register-book.

Whoever has the control of the book at the time when it is filled, shall send it to the Marriage Registrar of the district, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the local Government, to be kept by him with the records of his office.

PART V.

MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR.

Notice of intended marriage before Marriage Registrar.

XXXVIII. When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the district within which the parties have dwelt,

or, if the parties dwelt in different districts, shall give the like notice to a Marriage Registrar of each district,

and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them, the time during which each has dwelt therein, and the place at which the marriage is to be solemnized:

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

XXXIX. Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

Publication of notice.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

XL. The Marriage Registrar shall file all such notices and keep them with the record of his office,

Notice to be filed and copy entered in Marriage Notice Book.

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the local Government, and to be called the "Marriage Notice Book;"

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

XLI. If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made:

Certificate of notice given and oath made.

Proviso. Provided—

that no lawful impediment be shown to his satisfaction why such certificate should not issue;

that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Act;

that four days after the receipt of the notice have expired, and further,

that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

XLII. The certificate mentioned in Section 41 shall not be issued by any Marriage Registrar until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath

Oath or declaration to be made before issue of certificate.

(*a*) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and

(*b*) that both the parties have, or (where they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his or her usual place of abode within the district of such Marriage Registrar,

and, where either or each of the parties is a minor,

(*c*) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in India authorized to give such consent, as the case may be.

XLIII. When one of the parties intending marriage is a minor, and both such parties are at the time resident in any of the towns of Calcutta, Madras, and Bombay, and are desirous of being married in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to a Judge of the High Court, for an order upon

Petition to High Court to order certificate in less than fourteen days.

the Marriage Registrar, to whom the notice of marriage has been given, directing him to issue his certificate before the expiration of the said fourteen days required by Section 41.

Order on petition.

And on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order, before the expiration of the fourteen days so required;

And the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

Provision as to consent of father or guardian to apply.

XLIV. The provisions of Section 19 apply to every marriage under this part, either of the parties to which is a minor;

Protest against issue of certificate.

and any person, whose consent to such marriage would be required thereunder, may enter a protest against the issue of the Marriage Registrar's certificate, by writing, at any time before the issue of such certificate, the word "forbidden," opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

Effect of protest.

When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

Petition where person whose consent is necessary is insane, or unjustly withholds consent.

XLV. If any person whose consent is necessary to any marriage under this part is of unsound mind,

or if any such person (other than the father) without just cause withholds his consent to the marriage,

the parties intending marriage may apply by petition, where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras, and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then to the District Judge.

Procedure on petition.

And the said Judge of the High Court, or District Judge, as the case may be, may examine the allegation of the petition in a summary way.

And if upon examination such marriage appears proper, such Judge of the High Court or District Judge, as the case may be, shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage;

and if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued, and the like proceedings may be had under this part in relation to the marriage as if the issue of such certificate had not been forbidden.

Petition when Marriage Registrar refuses certificate.

XLVI. Whenever a Marriage Registrar refuses to issue a certificate under this part, either of the parties intending marriage may apply by petition, where the district of such Registrar is within any of the towns of Calcutta, Madras, and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then to the District Judge.

Procedure on petition.

The said Judge of the High Court or District Judge, as the case may be, may examine the allegations of the petition in a summary way, and shall decide thereon.

The decision of such Judge of the High Court or District Judge, as the case may be, shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made, shall proceed in accordance therewith.

Petition when Marriage Registrar, in Native State, refuses certificate.

XLVII. Whenever a Marriage Registrar, resident in any Native State, refuses to issue his certificate, either of the parties intending marriage may apply by petition to the Governor-General in Council, who shall decide thereon.

Such decision shall be final, and the Marriage Registrar to whom the application was originally made shall proceed in accordance therewith.

Petition when Registrar doubts authority of person forbidding.

XLVIII. Whenever a Marriage Registrar, acting under the provisions of Section 44, is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, where his district is within any of the towns of Calcutta, Madras, and Bombay, to a Judge of the High Court; or, if such district be not within any of the said towns, then to the District Judge.

Procedure on petition.

The said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same,

and the said Judge of the High Court or District Judge, as the case may be, shall examine into the allegations of the petition and the circumstances of the case,

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorized by law so to do, such Judge of the High Court or District Judge, as the case may be, shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid.

And thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage as if the issue had not been forbidden.

Reference when Marriage Registrar, in Native State, doubts authority of person forbidding.

Whenever a Marriage Registrar appointed under Section 8 to act within any Native State is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall send a statement of all the circumstances of the case, together with all documents relating thereto, to the Governor-General in Council.

Procedure on reference.

If it appears to the Governor-General in Council that the person forbidding the issue of such certificate is not authorized by law so to do, the Governor-General in Council shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage, as if the issue of the certificate had not been forbidden.

Liability for frivolous protest against issue of certificate.

XLIX. Every person entering a protest with the Marriage Registrar, under this part, against the issue of any certificate on grounds which such Marriage Registrar, under Section 44, or a Judge of the High Court or the District Judge, under Section 45 or 46, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages to be recovered by suit by the person against whose marriage such protest was entered.

Form of certificate.

L. The certificate to be issued by the Marriage Registrar under the provisions of Section 41 shall be in the form, contained in the second schedule to this Act annexed or to the like effect,

and the local Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

Solemnization of marriage after issue of certificate.

LI. After the issue of the certificate of the Marriage Registrar,

or, where notice is required to be given under this Act to the Marriage Registrars for different districts, after the issue of the certificates of the Marriage Registrars for such districts,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such Marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows or to the like effect:—

"I do solemnly declare that I know not of any lawful impediment why I, *A. B.*, may not be joined in matrimony to *C. D.*"

And each of the parties shall say to the other as follows or to the like effect:—"I call upon these persons here present to witness that I, *A. B.*, do take thee, *C. D.*, to be my lawful wedded wife [*or husband*]."

When marriage is not had within two months after notice, a new notice required.

LII. Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by Section 40, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void;

and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

Marriage Registrar may ask for particulars to be registered.

LIII. A Marriage Registrar before whom any marriage is solemnized under this part may ask of the persons to be married the several particulars required to be registered touching such marriage.

Registration of marriages solemnized under Part V.

LIV. After the solemnization of any marriage under this part, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate, that is to say, in a marriage register-book, according to the form of the fourth schedule hereto annexed, and also in a certificate attached to the marriage register-book as a counterfoil.

The entry of such marriage in both the certificate and the marriage register-book shall be signed by the person by or before whom the marriage has been solemnized, if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married, and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage register-book.

Certificates to be sent monthly to Secretary to Government.

LV. The Marriage Registrar shall forthwith separate the certificate from the marriage register-book and send it, at the end of every month, to the Secretary to the local Government.

Custody of register-book.

The Marriage Registrar shall keep safely the said register-book until it is filled, and shall then send it to the Secretary to the local Government, to be kept by him with the records of his office.

Officers to whom Registrars in Native States shall send certificates.

LVI. The Marriage Registrars in Native States shall send the certificates mentioned in Section 54 to such officers as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Registrars to ascertain that notice and certificate are understood by Native Christians.

LVII. When any Native Christian about to be married gives a notice of marriage, or applies for a certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both of them, as the case may be, to such Native Christian into a language which he understands;

or the Marriage Registrar shall otherwise ascertain whether the Native Christian is cognizant of the purport and effect of the said notice and certificate.

Native Christians to be made to understand declarations at marriage.

LVIII. When any Native Christian is married under the provisions of this part, the person solemnizing the marriage shall ascertain whether such Native Christian understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization, translate, or cause to be translated, to such Native Christian, into a language which he understands, the declarations made at such marriage in accordance with the provisions of this Act.

Registration of marriages between Native Christians.

LIX. The registration of marriages between Native Christians under this part shall be made in conformity with the rules laid down in Section 37 (so far as they are applicable), and not otherwise.

PART VI.

MARRIAGE OF NATIVE CHRISTIANS.

On what conditions marriages of Native Christians may be certified.

LX. Every marriage between Native Christians applying for a certificate, shall, without the preliminary notice required under Part III., be certified under this part, if the following conditions be fulfilled, and not otherwise:—

(1).—The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2).—Neither of the persons intending to be married shall have a wife or husband still living:

(3).—In the presence of a person licensed under Section 9 and of at least two credible witnesses other than such person, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, *A. B.*, in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, *C. D.*, to be my lawful wedded wife [*or husband*]," or words to the like effect:

Provided that no marriage shall be certified under this part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent, as is mentioned in Section 19, has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

Grant of certificate.

LXI. When, in respect to any marriage solemnized under this part, the conditions prescribed in Section 60 have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, shall, on the application of either of the parties to such marriage, and, on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

Register Book to be kept.

LXII. A register-book of all marriages of which certificates are granted under Section 61 shall be kept by the person granting such certificates in his own vernacular language.

Such register-book shall be kept according to such form as the local Government from time to time prescribes in this behalf, and true extracts therefrom, duly authenticated, shall be deposited at such places as the local Government directs.

Searches in register-book, and copies of entries.

LXIII. Every person licensed under this Act to grant certificates of marriage, and keeping a marriage register-book under Section 62, shall at all reasonable times allow search to be made in such book, and shall, on

payment of the proper fee, give a copy, certified under his hand, of any entry therein.

Books in which marriages of Native Christians under Part I. or Part III. are registered.

LXIV. The provisions of Sections 62 and 63 as to the form of the register-book, depositing extracts therefrom, allowing searches thereof, and giving copies of the entries therein, shall, *mutatis mutandis*, apply to the books kept under Section 37.

Part VI. not to apply to Roman Catholics.

Saving of certain marriages.

LXV. This part of this Act, except so much of Sections 62 and 63 as are referred to in Section 64, shall not apply to marriages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of Part V. of Act No. XXV. of 1864, previous to the twenty-third day of February, 1865.

PART VII.

PENALTIES.

False oath, notice or certificate for procuring marriage.

LXVI. Whoever, for the purpose of procuring any marriage, intentionally makes any false oath or signs any false notice or certificate required by this Act, shall be deemed guilty of the offence described in Section 103 of the Indian Penal Code.

Forbidding, by false personation, issue of certificate by Marriage Registrar.

LXVII. Whoever forbids the issue by a Marriage Registrar of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in Section 205 of the Indian Penal Code.

Solemnizing marriage without due authority.

LXVIII. Whoever, not being authorized under this Act to solemnize a marriage in the absence of a Marriage Registrar of the district in which such marriage is solemnized, knowingly solemnizes a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment for seven years or upwards) with transportation for a term of not less than seven years and not exceeding ten years,

or, if the offender be a European or American, with penal servitude according to the provisions of Act No. XXIV. of 1855, (*to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts,*)

and shall also be liable to fine.

Solemnizing marriage out of proper time, or without witnesses;

LXIX. Whoever knowingly and wilfully solemnizes a marriage between persons, one or both of whom is or are a Christian or Christians at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be

punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Saving of marriages solemnized under special license;

This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in Section 10.

Solemnizing, without notice or within fourteen days after notice, marriage with minor;

LXX. Any Minister of religion licensed to solemnize marriages under this Act, who, without a notice in writing, or (when one of the parties to the marriage is a minor, and the required consent of the parents or guardians to such marriage has not been obtained) within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III., shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Issuing certificate, or marrying without publication of notice;

LXXI. A Marriage Registrar under this Act, who commits any of the following offences:—

(1) knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act;

Marrying after expiry of certificate;

(2) after the expiration of two months from the issue by him of a certificate in respect of any marriage solemnizes such marriage;

Solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice;

(3) solemnizes, without an order of a competent Court authorizing him to do so, any marriage when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Senior Marriage Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar;

issuing certificate contrary to authorized prohibition;

(4) issues any certificate, the issue of which has been prohibited as in this Act provided by any person authorized to prohibit the issue thereof,

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition;

LXXII. Any Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of three months after the notice has been entered by him as aforesaid,

or knowingly and wilfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under Section 166 of the Indian Penal Code.

Persons authorized to solemnize marriage (other than Clergymen of the Churches of England, Scotland, or Rome) to be liable for following offences.

LXXIII. Whoever, being authorized under this Act to solemnize a marriage,

and not being a Clergyman of the Church of England, solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies, and customs of that church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies, and customs of that church,

Issuing certificate, or marrying, without publishing notice,

or after expiry of certificate.

knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III. of this Act, or after the expiration of two months after the certificate has been issued by him;

issuing certificate for, or solemnizing marriage with minor, within fourteen days after notice;

or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons (when one of the persons intending marriage is a minor) before the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the district;

issuing certificate authorizedly forbidden;

or knowingly and wilfully issues any certificate, the issue of which has been forbidden under this Act by any person authorized to forbid the issue;

solemnizing marriage authorizedly forbidden;

or knowingly and wilfully solemnizes any marriage forbidden by any person authorized to forbid the same,

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

Unlicensed person granting certificate pretending to be licensed.

LXXIV. Whoever, not being licensed to grant a certificate of marriage under Part VI. of this Act, grants such certificate, intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Destroying or falsifying register-book.

LXXV. Whoever, by himself or another, wilfully destroys or injures any register-book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom,

or falsely makes or counterfeits any part of such register-book or counterfoil certificates,

or wilfully inserts any false entry in any such register-book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Limitation of prosecutions under Act.

LXXVI. The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

PART VIII.

MISCELLANEOUS.

What matters need not be proved in respect of marriage in accordance with Act.

LXXVII. Whenever any marriage has been solemnized in accordance with the provisions of Sections 4 and 5, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely:—

(1.) Any statement made in regard to the dwelling of the persons married, to the consent of any person whose consent to such marriage is required by law:

(2.) The notice of the marriage:

(3.) The certificate or translation thereof:

(4.) The time and place at which the marriage has been solemnized:

(5.) The registration of the marriage.

Corrections of errors.

LXXVIII. Every person, charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or in case of their death or absence in the presence of two other credible witnesses, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And, in case such certificate has been already sent to the Secretary to the local Government, such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches and copies of entries.

LXXIX. Every person solemnizing a marriage under this Act, and hereby required to register the same,

and every Marriage Registrar or Secretary to a local Government having the custody for the time being of any register of marriages, or of any certificate, or duplicate or copies of certificate under this Act,

shall, on payment of the proper fees, at all reasonable times allow searches to be made in such register, or for such certificate, or duplicate or copies, and give a copy under his hand of any entry in the same.

Certified copy of entry in marriage register, &c., to be evidence.

LXXX. Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage register or certificate, or duplicate required to be kept or delivered under this Act, of any entry of a marriage in such register, or of any such certificate or

duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate, or duplicate, or of any entry therein, respectively, or of such copy.

Sending certificates of certain marriages to Secretary of State for India.

LXXXI. The Secretary to the local Government and the officers appointed under Section 56 shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to them respectively during such quarter, the certificates of the marriages of which the Governor-General in Council may desire that evidence shall be transmitted to England,

and shall send the same certificates signed by them respectively to the Secretary to the Government of India in the Home Department, for the purpose of being forwarded to the Secretary of State for India and delivered to the Registrar-General of Births, Deaths, and Marriages:

Provided that in the case of the Governments of Madras and Bombay, the said certificates shall be forwarded by such Governments respectively directly to the Secretary of State for India.

Local Government to prescribe fees.

LXXXII. Fees shall be chargeable under this Act for—

receiving and publishing notices of marriages;

issuing certificates of marriage by Marriage Registrars, and registering marriages by the same;

entering protests against, or prohibitions of, the issue of marriage certificates by the said Registrars;

searching register-books or certificates, or duplicates, or copies thereof;

giving copies of entries in the same under Sections 63 and 79.

The local Government shall fix the amount of such fees respectively, and may from time to time vary or remit them either generally or in special cases, as to it may seem fit.

Power to make rules.

LXXXIII. The local Government may make rules in regard to the disposal of the fees mentioned in Section 82, the supply of register-books, and the preparation and submission of returns of marriages solemnized under this Act.

Power to prescribe fees and rules for Native States.

LXXXIV. The powers conferred on the local Government by Sections 82 and 83 may, so far as regards Native States, be exercised by the Governor-General in Council.

Power to declare who shall be District Judge.

LXXXV. The local Government may, by notification in the official Gazette, declare who shall, in any place to which this Act applies, be deemed to be the District Judge.

Power to delegate functions under this Act of Governor-General in Council.

LXXXVI. The powers and functions given by this Act to the Governor-General in Council may be delegated to and exercised by such officers as the Governor-General in Council, from time to time, appoints in this behalf.

And all such powers and functions may be exercised, as regards Native States situate within the local limits of the Presidencies of Fort

Saint George and Bombay, by the Governors in Council of those Presidencies respectively.

Saving of Consular marriages.

LXXXVII. Nothing in this Act applies to any marriage performed by any Minister, Consul, or Consular Agent between subjects of the State which he represents and according to the laws of such State.

Act not to validate marriages within prohibited degrees.

LXXXVIII. Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

SCHEDULE I.

(*See Sections* 12 *and* 38.)

NOTICE OF MARRIAGE.

To a Minister [*or* Registrar] of

I hereby give you notice that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say) :—

Names.	Condition.	Rank or profession.	Age.	Dwelling place.	Length of residence.	Church, chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	*16, Clive Street.*	*28 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings Street.*	*More than a month.*		

Witness my hand, this day of *seventy-two.*

(*Sd.*) *JAMES SMITH.*

[The *italics* in this schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE II.

(*See Sections* 24 *and* 50.)

CERTIFICATE OF RECEIPT OF NOTICE.

I,
do hereby certify that on the day of notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of , one of the parties (that is to say) .—

Names.	Condition.	Rank or profession.	Age.	Dwelling place.	Length of residence	Church, chapel, or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings Street.*	*More than a month.*		

and that the declaration required by Section 17 or 41 of "The Indian Christian Marriage Act, 1872," has been duly made by the said (*James Smith*).

Date of notice entered } The issue of this certificate has not been prohibited
Date of certificate given } by any person authorized to forbid the issue thereof.

Witness my hand, this day of *seventy-two.*

(Signed)

This certificate will be void, unless the marriage is solemnized on or before the day of

[The *italics* in the schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE III.

(*See Section* 28.)

FORM OF REGISTER OF MARRIAGES.

QUARTERLY RETURNS of marriages for the Archdeaconry of { *Calcutta.* / *Madras.* / *Bombay.* }

I, , Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* } do hereby certify that the annexed are correct copies of the originals and official quarterly returns of marriage within the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* } as made and transmitted to me for the quarter commencing the day of ending the day of in the year of Our Lord

[*Signature of Registrar.*]

Registrar of the Archdeaconry of { *Calcutta.* / *Madras.* / *Bombay.* }

MARRIAGES solemnised at { *Allahabad.* / *Barrackpur.* / *Bareli.* / *Calcutta, &c., &c.* }

When Married.			Names of Parties.										
Year.	Month.	Day.	Christian.	Surname.	Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.	By banns or license.	Signatures of the parties.	Signatures of two or more witnesses present.	Signature of the person solemnizing the marriage.

SCHEDULE IV.

(*See Sections* 32 *and* 54.)

MARRIAGE REGISTER BOOK.

Number.	When married.			Names of Parties.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
	Day.	Month.	Year.	Christian name.	Surname.					
1				*James* ...	*White* ...	26 *years*...	*Widower*..	*Carpenter*	*Agra* ...	*William White.*
				Martha ...	*Duncan* ...	17 *years*...	*Spinster*...	.....	*Agra* ...	*John Duncan.*

Married in the

This marriage was solemnized between us { *James White,* *Martha Duncan,* } in the presence of us { *John Smith,* *John Green.* }

CERTIFICATE OF MARRIAGE.

Number.	When married.			Names of Parties.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
	Day.	Month.	Year.	Christian name.	Surname.					
1				*James* ...	*White* ...	26 *years*...	*Widower*..	*Carpenter*	*Agra* ...	*William White.*
				Martha ...	*Duncan* ...	17 *years*...	*Spinster*...	.....	*Agra* ...	*John Duncan.*

Married in the

This marriage was solemnized between us { *James White,* *Martha Duncan,* } in the presence of us { *John Smith* *John Green.* }

SCHEDULE V.

(*See Section* 2.)

ENACTMENTS REPEALED.

Number and Year.	TITLE.	Extent of Repeal.
Statute 58 Geo. III., cap. 84.	An Act to remove doubts as to the validity of certain Marriages had and solemnized within the British Territories in India.	The whole.
Statute 14 & 15 Vic., cap. 42	An Act for Marriages in India	The whole.
Act No. V. of 1852 ...	An Act for giving effect to the provisions of an Act of Parliament passed in the fifteenth year of the reign of Her present Majesty, intituled "An Act for Marriages in India."	So much as has not been repealed.
Act No. V. of 1865 ...	The Indian Marriage Act, 1865 ..	The whole Act, except so far as it relates to the Straits Settlements.
Act No. XXII. of 1866.	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts, and the Cantonments of Secunderabad, Trimungerry, and Aurungabad.	The whole.

ACT No. XVI. OF 1872.

An Act for imposing a Duty on certain Spirits manufactured in British Burmah.

Preamble.

For the purpose of imposing a duty on spirits manufactured at distilleries in British Burmah, worked according to the English method; it is hereby enacted as follows:—

Short title.

1. This Act may be called 'The Burmah Spirit Duty Act, 1872.'

Local extent.

It extends only to British Burmah:

Commencement.

It shall come into force on the passing thereof;

Act to be read as part of Excise Act, 1871.

And it shall be taken as part of the Excise Act, 1871.

Duty on English spirits manufactured in Burmah.

2. A duty shall be levied on spirits manufactured at distilleries in British Burmah, worked according to the English method, at such rate per imperial gallon, of the strength of London proof, not exceeding the highest rate of duty for the time being leviable in any other part of British India on similar spirits, as the local Government, with the previous sanction of the Governor-General in Council, from time to time notifies in the local official Gazette.

The duty leviable under this section shall be augmented or reduced in proportion to the strength of the spirits on which it is levied.

Excise Act, 1871, Section 21, clauses 2 and 3, to apply to such spirits.

3. The provisions of the second and third clauses of Section 21 of the Excise Act, 1871, shall apply to such spirits, as if for the words 'aforesaid duty' the words 'duty leviable under the Burmah Spirit Duty Act, 1872,' were substituted.

Legalization of prior levy of duties.

4. All duties heretofore levied on such spirits shall be deemed to have been levied in accordance with law, and no suit or other proceeding shall be maintained against any officer or other person in respect of any such levy.

INDEX TO THE ACTS

OF 1871, AND 1872 TO DATE.

It has not been considered necessary to make any reference in this Index to the Criminal Procedure Code, the Table of Contents prefixed to that Code being very ample.

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